

EXHIBIT 1

CAUSE NO. _____

U.S. PIPELINE, INC.,	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
V.	§	OF HARRIS COUNTY, TEXAS
	§	
ROVER PIPELINE, LLC	§	
<i>Defendant.</i>	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

U.S. Pipeline, Inc. ("USPL") files this suit against Rover Pipeline, LLC ("Rover").

I. SUMMARY OF DISPUTE

1. This dispute stems from Rover's breach of a Master Construction Agreement (the "Agreement") governing its relationship with USPL and, more specifically, USPL's construction of three segments of Rover's 713-mile interstate natural gas pipeline (the "Pipeline"). Additionally, Rover made material misrepresentations, upon which USPL relied, regarding the material and access to the work site Rover was contractually obligated to provide. Rover's actions and inactions, misrepresentations, and breaches caused substantial delays and required USPL to perform additional and accelerated work not in contemplation of the parties at the time of execution of the Agreement ("Extra Work"). USPL performed the Extra Work as directed by Rover.

2. Under the Agreement, Rover is obligated to pay USPL for 100% of the Extra Work USPL performed. Despite demand, Rover refuses to compensate USPL for Extra Work necessitated by Rover's misrepresentations, breaches, and delays.

II. DISCOVERY CONTROL PLAN

3. USPL intends to conduct discovery under Level 2 pursuant to Texas Rule of Civil Procedure 190.3. USPL affirmatively pleads that this suit is not governed by the expedited-actions

process in Texas Rules of Civil Procedure 169 because USPL seeks more than \$1,000,000 in damages plus all other relief to which it is entitled.

III. PARTIES

4. Plaintiff, U.S. Pipeline, LLC, is a Texas corporation with its principal place of business at 8100 Washington Avenue, Suite 200, Houston, Texas 77077.

5. Defendant, Rover Pipeline, LLC, is a limited liability company organized under the laws of Delaware. Rover's principal place of business and corporate residence is in Harris County, Texas. Rover's current home office and principal place of business is located at 1300 Main Street, Houston, Texas 77002. Rover also expressed in the Agreement that correspondence should be sent to 1300 Main Street, Houston, Texas 77002. Rover previously utilized 8111 Westchester Drive, Suite 600, Dallas, Texas 75225 as its home office and/or principal place of business. For purposes of service of process, USPL will serve both addresses.

6. Rover engages in business in Texas, but has not designated or maintained a resident agent for service of process in Texas. Pursuant to Texas Business and Organizations Code §§ 5.251-5.255, Rover may be served with process through the Texas Secretary of State as its registered agent for service of process by certified or regular mail directed to Service of Process, Secretary of State, P.O. Box 12079, Austin, Texas 78711-2079 or by personal or overnight delivery directed to Service of Process, Secretary of State, James E. Rudder Building, 1019 Brazos, Room 105, Austin, Texas 78701.

IV. JURISDICTION

7. This Court has subject-matter jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.

8. The Court has personal jurisdiction over Rover because Rover's primary place of business is Texas and Rover is a resident of Texas. Rover also holds itself out as being a Texas-based company.

9. Additionally, in the contract at issue, Rover consented to personal jurisdiction in Texas. Rover also engaged in business in Texas by contracting with a Texas resident, and the Agreement was performed in whole or in part in Texas by both parties.

10. Additionally, Rover purposefully directed its activities towards Texas and availed itself of the privileges and benefits of conducting business in Texas by contracting with and/or employing Texas residents, negotiating and engaging in commercial transactions in Texas, and rendering services in Texas. Specifically, and in connection with this dispute, Rover requested proposals, requested bids on contracts, planned extensive pipeline work, engaged in extensive negotiations, entered into contracts, such as the Agreement, in Texas, paid third parties located in Texas, on information and belief deposited money in financial institutions located in Texas, and negotiated with federal agencies and regulatory bodies concerning the construction of the pipeline at issue in this case while in Texas.

11. On information and belief, a majority of Rover's representatives that negotiated the Agreement live and primarily work in Texas, including Rover's President. Those same employees, while in Texas, partially performed Rover's obligations under the Agreement. On information and belief, Rover employs workers in Texas, signs contracts in Texas, openly discusses its commitment to the Texas market, engages in business meetings in Texas on a regular basis, works with and communicates with Texas-based companies, including USPL, on a regular basis, performs administrative tasks in Texas, and manages the overall operations for the Pipeline from Texas. Rover also utilizes the Texas courts as a plaintiff. Rover conducts extensive amounts of business

in Texas and has systematic and continuous contacts with Texas. In short, Rover is fully at home in Texas.

12. Rover is also fully at home in Texas because it is a wholly-owned subsidiary of Energy Transfer Partners (“ETP”), a Texas-based company. Many of Rover’s agents and representatives are also officers, employees, agents, and/or representatives of ETP. At all times relevant to this dispute, Rover regularly corresponded with USPL through ETP employees using ETP email addresses. The very first line of ETP’s Corporate Overview on its website is that “Energy Transfer is a Texas-based company...”

13. The Agreement also expressly states that any disputes arising out of the Agreement and/or the rights and duties thereunder may only be brought in Texas.

V. VENUE

14. Venue is mandatory in Harris County under Texas Civil Practice and Remedies Code §15.020(b) because this suit arises from a “major transaction” as defined by Texas Civil Practice and Remedies Code § 15.020(a), and this is the county designated in writing as the county for suit. Here, the parties’ transaction was memorialized in the written Agreement, signed by both Rover and USPL, and evidences consideration in excess of \$1,000,000. Moreover, the Agreement states, in no uncertain terms, “Venue shall be proper in Harris County.” *See Exhibit 1, Master Construction Agreement* at ¶ 36.

15. Venue is also proper in Harris County, Texas because a substantial part of the events or omissions giving rise to the claims occurred in Harris County, Texas. TEX. CIV. PRAC. & REM. CODE §15.002(a)(1). More specifically, venue is proper in Harris County because the Agreement was negotiated and signed in Harris County; USPL performed many necessary functions relating to the Agreement in Harris County; Rover performed many of its necessary

functions under the Agreement in Harris County; USPL received Rover's payments for its performance of the Agreement in Harris County; and a considerable amount of Rover's employees involved in this dispute are principally based in Harris County, Texas.

VI. FACTUAL BACKGROUND

A. How to Build a Pipeline

16. Building a pipeline involves, among other things, welding miles of pipe together, clearing land, felling trees, accessing rights-of-way ("ROW"), building roads on the ROW, digging trenches in which to place completed pipeline, going under roads, fences, and bodies of water, and much more. Unless otherwise contemplated at the time of contracting, pipeline contractors attempt to perform all of the above activities in a linear and continuous manner.

17. The best way to envision building a pipeline is to think of an assembly line process, in which the entire assembly line moves to assemble the product. If the owner of the pipeline, such as Rover, has not acquired the ROW for or access to a particular piece of land, the entire assembly line must be taken apart and transported to a new location where the owner has the required access and ROW. The pipeline contractor, such as USPL, must then re-build the assembly line before it can continue its Work. This process is time-intensive and extremely expensive both in itself and by the impact it has on productivity and efficiency of the contractor's crews. In some cases, such as occurred on the Project, lack of proper access or ROWs can result in the contractor having to move a portion of its resources one way into the work site to perform portions of the work and then exit the work site backwards along the same route, followed by successive crews and resources for successive portions of the work, resulting in significant inefficiency and disruption. Accordingly, even a seemingly short delay or minor change can significantly hinder the contractor's ability to achieve its planned construction schedule and estimated cost. Given the large

distances over which pipelines stretch, and the millions of man-hours and equipment rental hours, constructing a pipeline regularly costs hundreds of millions of dollars.

18. As explained in more detail below, Rover's conduct significantly impeded USPL's ability to perform its Work according to the Agreement and prevented USPL from constructing the Pipeline in the usual and customary manner. Rover's actions and omissions resulted in significant delays and increased project costs for which USPL now seeks reimbursement under the terms of the Agreement.

B. USPL and Rover Negotiate the Master Construction Agreement

19. USPL is a well-established and experienced pipeline contractor that has built thousands of miles of pipeline across the country. Rover owns the Rover Pipeline, a 713-mile interstate natural gas pipeline designed to transport 3.25 billion cubic feet per day of domestically produced natural gas to markets in the United States and Canada (the "Rover Pipeline" or "Pipeline").

20. USPL submitted a bid to construct a portion of the Pipeline, and negotiations between Rover and USPL occurred over a period of months. Ultimately, USPL received a contract to construct three "spreads" or segments of the Pipeline, defined in the Agreement as "Spread 1," the "Clarington Lateral Spread," and the "Cadiz Lateral Spread." (collectively, the "Spreads" or "Project"). The parties negotiated a Target Price Agreement, pursuant to which they agreed to set a Target Price Estimate for the performance of the Work under the Agreement¹, then measure actual costs incurred in constructing the Project against the agreed Target Price Estimate of \$280 million. The Target Price Estimate was calculated according to a number of assumptions and

¹ The Agreement defines "Work" as "all activities necessary to complete the installation of a 42 and 30-inch high-pressure natural gas pipelines with ancillary facilities for [Rover]. The Work includes all items set forth in [Exhibit A to the Agreement, entitled "Scope of Work"], Plans and Specifications ('Exhibit B'), Company Furnished Materials (Exhibit C), and Company Furnished Drawings. Ex. 1 at Exhibit A, ¶ 1.0.

express representations between the parties, including the overall schedule for commencement and completion of the Work, Progression Rates that were to be achieved by USPL in performing the Work, and Rover's provision of permits, ROW, access, and materials for efficient performance of the Work in a continuous and linear fashion. *See e.g. Ex. 1* at Part II, ¶ 29. In forming the Target Price Estimate, USPL expressly relied on Rover's representations regarding, among other things, schedule and provision of permits, ROW, access, and materials necessary for efficient performance.

21. The parties agreed that USPL would be paid (i) its actual costs incurred for certain components of the cost of the Work, (ii) on a percentage of actual costs incurred for certain components, and (iii) on a lump sum basis for other components. If the final actual cost (the aggregate of the Target Price components) was less than the Target Price Estimate, Rover and USPL would share in the savings at a ratio of 80/20, respectively. If final actual costs exceeded the Target Price Estimate, Rover and USPL would share responsibility for the overrun at a ratio of 80/20, respectively.

22. Required or requested work that was not in the contemplation of the parties at the time the Agreement was executed was considered Extra Work. In the Agreement, Rover accepted responsibility for full payment of all Extra Work USPL performed. Similarly, if Rover's actions required USPL to accelerate the Work, or work in winter conditions, Rover agreed that this work would be compensated as Extra Work. The parties further agreed that the costs related to Extra Work were not to be included in the calculation of aggregate actual costs for purposes of comparison to the Target Price Estimate or for the 80/20 risk-sharing formula. In other words, Rover agreed to pay 100% of all costs incurred in the performance of Extra Work, plus certain

other fees and charges, and in the manner specified for each cost component set out in the Agreement.

23. Given the massive delays and cost increases Rover caused throughout construction of the Project, the aggregate actual costs incurred exceeded the Target Price Estimate. However, the vast majority of the incurred overage was associated with work that constitutes Extra Work under the terms of the Agreement. The Agreement expressly requires Rover to pay USPL for 100% of the costs of Extra Work, plus certain other charges and fees, even if all other costs exceed the Target Price Estimate. Nonetheless, Rover only paid USPL for roughly 80% of the costs of performing the work above the Target Price Estimate, disputing that such work was Extra Work and citing the 80/20 split of responsibility for cost overruns in excess of the Target Price Estimate. Rover ignores the fact that Rover, not USPL, breached the Agreement and caused USPL's costs to exceed the Target Price Estimate, and that the costs claimed by USPL are properly considered Extra Work under the Agreement.

C. Rover's Delays Required Extra Work and Increased the Cost of Construction

24. From the outset, Rover caused significant delays and disruption that led to cost increases. By way of example, but not limitation, Rover delayed and disrupted performance of the Work, requiring USPL to perform Extra Work, in the following ways:

- Failing to timely issue the Notice to Proceed as required for USPL to perform the Work as contemplated;
- Failing to provide the required access to the ROW, ingress and egress, and use of roads and highways at the time and in the manner contemplated by the parties;
- Failing to provide unrestricted access to the ROW in a continuous, linear fashion at the time and in the manner required for USPL to perform the Work as contemplated by the parties;

- Failing to provide ROW at the time and in the manner required for USPL to perform the Work as contemplated by the Agreement;
- Failing to timely approve welding procedures for the Work in the manner required for USPL to perform the Work as contemplated;
- Failing to coordinate with neighboring utilities for the identified work space represented in the Agreement, resulting in a significantly reduced space in which USPL could work and requiring USPL to perform the Work in a manner that was not contemplated, which materially impacted the efficiency and productivity of USPL and its resources;²
- Failing to provide the requisite lengths of pipe upon which the Progression Rates and Target Price Estimate were based, requiring USPL to perform substantially more welds than the parties had contemplated, which, in turn, limited the daily progress of USPL's crews and further delayed the Work;³
- Forcing USPL to conduct winter work; and
- Continually instructing USPL to accelerate Work in an effort to complete the Project as soon as possible.

25. Rover is also responsible for additional delays, which hindered USPL's ability to perform the Work. For instance, as mentioned above, Rover hired multiple contractors to construct the 713-mile Pipeline. During USPL's performance of the Work, it received an order from government regulators to stop work on certain aspects of the Project. The "Stop Work" Order was issued as a result of the regulators' concerns regarding work performed by other contractors on the Pipeline. Although completely unrelated to USPL, portions of USPL's Work was, nevertheless, called to a halt. This drastically impacted USPL's ability to continue with its Work and delayed the completion of the Project.

26. None of the delays listed above—which represent only a few examples—were within the contemplation of the parties at the time the Agreement was executed.

² Significantly, Rover knew of—but failed to disclose to USPL—the limitations on USPL's available work space before the Target Price Estimate was set and the parties executed the Agreement.

³ Again, before the Target Price Estimate was set and prior to execution of the Agreement, on information and belief, Rover knew of its inability to provide the requisite pipe lengths, but concealed this material information from USPL.

27. USPL repeatedly notified Rover of the numerous delays Rover caused and the resulting impacts on USPL's ability to perform the Work under the Agreement in the manner contemplated. Throughout USPL's performance, the parties frequently discussed Rover's delays and disruption. USPL repeatedly advised Rover of the adverse impacts Rover's conduct was having on the actual costs and as well as the schedule for completion. USPL also informed Rover that the additional costs were not contemplated in the Agreement and constituted Extra Work. Despite USPL's concerns and notices, Rover refused to engage in the agreed-upon procedure for negotiating and documenting changes. Instead, Rover repeatedly directed USPL to perform additional and accelerated work knowing USPL considered such work to be Extra Work.

28. Moreover, despite USPL's protest, Rover instructed USPL to continue to utilize inefficient resources and processes, and directed USPL to take all steps to accelerate the Work to achieve the originally-anticipated completion dates. In other words, Rover forced USPL to work inefficiently and to accelerate its performance at additional cost (e.g., additional labor, overtime, additional equipment). Ultimately, because of Rover's delays and disruption, USPL was required to work through winter months at lower efficiency, which further increased Project Costs.

29. In short, USPL committed resources to the Project well in excess of what was contemplated at the time the parties executed the Agreement. Rover's demand that USPL perform work not contemplated in the Agreement, accelerate its performance of the Work, and to work in winter conditions, for instance, all entitle USPL to compensation for the resulting costs as Extra Work. Despite demand, Rover refuses to pay USPL the compensation to which it is entitled under the Agreement.

VII. CAUSES OF ACTION

A. Breach of Contract

30. USPL incorporates the foregoing paragraphs by reference.

31. USPL and Rover entered into a valid and enforceable written contract: the Agreement. USPL performed its contractual obligations under the Agreement. Rover breached the Agreement by, among other things, failing to provide all ROW, access, and rights of ingress and egress necessary for the prosecution of the work; failing to provide the contractually-specified materials for use in USPL's work; and directing USPL to perform Extra Work but refusing to appropriately compensate USPL for it. Rover's breaches caused monetary injury to USPL for which it seeks damages in an amount in excess of the minimum jurisdictional limits of this Court.

B. Unjust Enrichment/Quantum Meruit

32. USPL incorporates the preceding paragraphs by reference.

33. In the alternative, Rover verbally directed and subsequently accepted services from USPL without compensating USPL. Rover had reasonable notice that USPL expected compensation for the Extra Work Rover directed it to perform. USPL performed, and Rover accepted the benefits of, the Extra Work. Rover must pay for the work USPL performed.

C. Fraudulent Inducement

34. USPL incorporates the foregoing paragraphs by reference.

35. In the alternative, Rover represented to USPL that it had obtained or would obtain prior to construction all required ROW, access, permits, and pipe necessary for the timely execution of the Work. Justifiably relying on Rover's representations, the parties created and agreed to the Target Price Estimate and Progression Rates. Rover also represented that it would

pay for 100% of the costs associated with Extra Work USPL performed, plus certain other charges and fees. Rover knew its representations were false, but made them to induce USPL's reliance.

36. Rover's representations to USPL were material because, but for those representations, USPL would not have agreed to perform the Work or sign the Agreement and would not have suffered the resulting losses that flowed therefrom.

37. Rover's acts and omissions were made either intentionally or recklessly (as a positive assertion) without knowledge of its truth. Those acts and omissions amounted to false representations of fact, failures to disclose, and failures to warn that directly and proximately caused injuries to USPL.

38. USPL's injuries resulted from Rover's fraud, malice, or callous disregard for USPL's rights, which entitles USPL to exemplary and punitive damages in addition to the actual and compensatory damages sought herein.

D. Waiver, Estoppel, Ratification, Inequitable Conduct, and Unconscionability.

39. Rover accepted and ratified USPL's work, including the Extra Work. Rover is estopped to claim that USPL cannot recover the value of the Extra Work performed, because Rover knew USPL expected to be paid for the Extra Work, Rover allowed and demanded USPL perform the Extra Work, and Rover accepted the benefit of the Extra Work. Rover took possession of the Pipeline and is receiving the benefit of it.

E. Declaratory Judgment

40. USPL incorporates the preceding paragraphs by reference.

41. Pursuant to the Texas Declaratory Judgment Act,⁴ an actual controversy exists between USPL, on the one hand, and Rover, on the other, regarding the scope of the parties'

⁴ TEX. CIV. PRAC. & REM. CODE §§37.001, *et. seq.*

obligations under the Agreement and the compensation due to USPL for, among other things, Extra Work Rover directed and subsequently accepted.

42. This declaratory-judgment action is proper because the judgment will clarify and settle legal relations between USPL and Rover and provide relief from the uncertainty and controversy giving rise to this proceeding. By granting the declaratory relief sought by USPL, the Court will clarify an ongoing and continuing dispute as to Rover's liability under the Agreement.

43. USPL seeks, and is entitled to, a judgment declaring that:

- a. Rover directed, and USPL performed, Extra Work, as that term is defined in the Agreement; and
- b. Rover is obligated to pay USPL for the Extra Work USPL performed.

44. USPL also seeks its attorneys' fees, expenses, and costs of court in connection with this declaratory relief, and such other and further relief to which USPL is justly entitled.

F. Negligent Misrepresentation

45. USPL incorporates the preceding paragraphs by reference.

46. Rover made material representations to USPL in the course of Rover's business or in a transaction in which Rover had an interest. Rover supplied false information for the guidance of USPL. Rover did not exercise reasonable care or competence in obtaining or communicating the information, such as the extent to which Rover had secured all ROW, access, and rights of ingress and egress necessary for the prosecution of USPL's work, the correct pipe, and others. USPL justifiably relied on Rover's misrepresentation proximately causing USPL to suffer injury for which it seeks relief.

VIII. ATTORNEYS' FEES

47. USPL seeks recovery of all attorneys' fees incurred pursuing this litigation, including all attorneys' fees and costs under all applicable contracts, statutes, codes, rules, and equities, including Civil Practice & Remedies Code §§37 and 38, *et. seq.*

IX. CONDITIONS PRECEDENT

48. All conditions precedent to USPL's recovery have been performed or occurred.

X. REQUESTS FOR DISCLOSURE

49. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, all parties named herein as a Defendant are requested to disclose, within fifty (50) days of service of this request, the information or material described in Texas Rule of Civil Procedure 194.2(a)-(1).

XI. PRAYER AND REQUEST FOR RELIEF

WHEREFORE PREMISES CONSIDERED, Plaintiff, U.S. Pipeline, Inc. asks that Defendant, Rover Pipeline, LLC, be cited to appear and answer and that the Court render a judgment for Plaintiff USPL for the following:

- a. Actual damages;
- b. Consequential and special damages;
- c. Exemplary and punitive damages;
- d. Pre-judgment and post-judgment interest as allowed by law;
- e. Reasonable attorney fees;
- f. Costs of suit;
- g. Declarations that USPL performed Extra Work and that Rover must compensate USPL for said Extra Work; and
- h. All other relief to which Plaintiff is entitled.

Respectfully submitted,

DOBROWSKI, LARKIN & JOHNSON L.L.P.

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ATTORNEYS FOR PLAINTIFF

**MASTER CONSTRUCTION AGREEMENT
NO.: MCA-585-2016-25820
FIXED FEE**

BETWEEN



ROVER PIPELINE
An ENERGY TRANSFER Company

**ROVER PIPELINE LLC
(COMPANY)**

AND

**U.S. PIPELINE, INC.
(CONTRACTOR)**

ROVER PIPELINE PROJECT

**SPREAD 1
CLARINGTON LATERAL
CADIZ LATERAL**

EFFECTIVE DATE: JANUARY 3, 2017

EXHIBIT 1

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MASTER CONSTRUCTION AGREEMENT

PART I

GENERAL TERMS, UNDERSTANDINGS AND OBLIGATIONS OF THE PARTIES

This agreement ("Agreement") is made and entered into as of January 3, 2017 by and between Rover Pipeline LLC, hereinafter referred to as "Company", and U.S. Pipeline, Inc. hereinafter referred to as "Contractor":

WITNESSETH THAT:

WHEREAS, Company desires the performance by an independent contractor of certain work pertaining to the construction of certain natural gas facilities; and

WHEREAS, Contractor has reviewed and is familiar with the specifications and the Site and scope of such Work and, if applicable, has submitted a Proposal or Work Offer to Company to perform such Work in accordance with Company's request or invitation to bid.

NOW, THEREFORE, in consideration of the moneys to be paid hereunder, and the mutual undertakings, covenants and agreements hereinafter set forth, the parties agree as follows:

1. **Scope of Work.** Contractor shall furnish and pay for all labor, supervision, tools, technical capability, transportation, materials and supplies (except those materials and supplies which Company hereinafter agrees to furnish) and all other items or accessories necessary for Contractor to perform and accomplish the Work described in Exhibit A, as set forth in the Work Offer, attached hereto as Exhibit F, and the Fixed Fee Proposal, attached hereto as Part IV, described in Part II of this Agreement (the "Work"). Company will issue written authorization for the commencement of Work, and Contractor shall not commence any Work without such written authorization.
2. **Materials.** Company shall furnish those materials shown in Exhibit C or in the Work Offer at the location(s) therein specified.
3. **Commencement of Work.** Contractor shall commence Work immediately after receipt of written authorization from Company to commence Work. Company shall issue two separate Notices to Proceed to Contractor under this Agreement. Company shall issue an "Early Notice to Proceed" for Contractor to execute preliminary Work related to critical path directional drills, road bores and tree felling and a subsequent "Notice to Proceed" for Contractor to commence Work under the Agreement. Company does not guarantee, represent, or warrant an affirmative Work commencement date under this Agreement. Any potential Work commencement date provided by Company to Contractor shall be considered an estimate(s) for informational purposes only.
4. **Completion Dates.** Following Company's issuance of a Notice to Proceed to Contractor, Contractor shall commence Work immediately after receipt of written authorization from Company to commence Work. Company may issue more than one written authorization for Contractor to commence Work to accommodate early commencement by Contractor on necessary ministerial Work prior to commencement of full crew mobilization and physical pipeline construction. Such ministerial Work may include, but is not limited to, tree felling or road bore preparation.

Contractor shall, at a minimum, achieve the Progression Rate set forth in Article II of Part IV and if necessary, accelerate its Work at such a rate of progress as necessary to achieve the following Completion Dates:

(a.) **Spread 1 Line A and B (AFE# 588000000008/Work Offer No. MCA-585-2016-25820-01).**

I. Line A

- i. **In-Service Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve an In-Service Date of July 1, 2017, with time being of the essence at all times.
- ii. **Clean-up Completion Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve an Clean-up Date of October 31, 2017, with time being of the essence at all times.
- iii. **Final Completion Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve the Final Completion Date of October 31, 2017, with time being of the essence at all times.

II. Line B

- i. **In-Service Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve an In-Service Date of November 1, 2017, with time being of the essence at all times.
- ii. **Clean-up Completion Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve an Clean-up Date of October 31, 2017, with time being of the essence at all times.
- iii. **Final Completion Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve the Final Completion Date of November 1, 2017, with time being of the essence at all times.

(b.) **Clarrington Lateral (AFE# 588000000008/Work Offer No. MCA-585-2016-25820-02).**

- i. **In-Service Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve an In-Service Date of July 1, 2017, with time being of the essence at all times.
- ii. **Clean-up Completion Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve an Clean-up Date of October 31, 2017, with time being of the essence at all times.
- iii. **Final Completion Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve the Final Completion Date of October 31, 2017, with time being of the essence at all times.

(c.) **Cadiz Lateral (AFE# 588000000008/Work Offer No. MCA-585-2016-25820-03).**

- i. **In-Service Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve an In-Service Date of July 1, 2017, with time being of the essence at all times.
- ii. **Clean-up Completion Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve an Clean-up Date of October 31, 2017, with time being of the essence at all times.
- iii. **Final Completion Date.** Contractor shall perform the Work at such a rate of progress as necessary to achieve the Final Completion Date of October 31, 2017, with time being of the essence at all times.

5. **Term.** This Agreement shall commence on January 3, 2017 ("Effective Date"). The term of the Agreement shall continue for a primary term of one (1) year from its Effective Date, and shall extend from month to month thereafter, unless and until terminated pursuant to Section 13 of Part II herein.

6. **Price.** As total consideration for the Work to be performed on all spreads hereunder, Company shall pay Contractor two hundred eighty million seven hundred ninety-eight thousand forty-nine dollars and twenty-five cents (\$280,798,049.25) pursuant to the individual spread Work Offer(s) as set forth in Exhibit F. The consideration set forth in each Exhibit F shall be based on Contractor's proposal, attached hereto as Part IV. All payments to Contractor shall be paid in accordance with the payment provisions, terms, and requirements of this Agreement.

(a) **Spread 1 Line A and B (AFE# 588000000008/Work Offer No. MCA-585-2016-25820-01):**

One hundred thirty-one million two hundred sixty-four thousand six hundred twenty-nine dollars and ninety-three cents (\$131,264,629.93).

(b) **Clarrington Lateral (AFE# 588000000008/Work Offer No. MCA-585-2016-25820-02).**

One hundred thirty-six million three hundred ninety thousand one hundred twenty-one dollars and seventy-one cents (\$136,390,121.71).

(c) **Cadiz Lateral (AFE# 588000000008/Work Offer No. MCA-585-2016-25820-03).**

Thirteen million one hundred forty-three thousand two hundred ninety-seven dollars and sixty-one cents (\$13,143,297.61).

7. **Notices.** All notices, consents, requests, invoices or statements provided for or permitted to be given under this Agreement must be in writing and are effective on actual receipt by the intended recipient or by delivery to the address, or facsimile number during working hours (8:00 a.m. to 5:00 p.m. CST) for the recipient listed below:

TO COMPANY:

NOTICES:

Leon Banta, Project Manager
Rover Pipeline LLC
1300 Main Street
Houston, Texas 77002

With a copy to:

Joey Mahmoud, Executive Vice President
Rover Pipeline LLC
1300 Main St.
Houston, Texas 77002

Keegan Pieper, Associate General Counsel
Rover Pipeline LLC
1300 Main St.
Houston, Texas 77002
Facsimile: 713-989-1212

TO CONTRACTOR:

NOTICES & INVOICES:

Kelly W. Osborn, President
U.S. Pipeline, Inc.
950 Echo Lane, Suite 100
Houston, Texas 77024
Facsimile No.: 281-531-6700

With a copy to:

Luke Kesner, Director
U.S. Pipeline, Inc.
950 Echo Lane, Suite 100
Houston, Texas 77024
Facsimile No.: 281-531-6700

INVOICES:

Contractor shall submit invoices to the email address below and must clearly indicate the Company name, AFE, Agreement and Work Offer numbers.

Email Invoices to: apinvoicesetp.mailbox@energytransfer.com

All notices, invoices, and other communications ("Notices") shall be sent to the parties at their respective addresses in writing and as set forth above. Notices sent through the mail shall be deemed to have been received on the third day after mailing.

8. **Tax Identification Number.** Contractor hereby designates [REDACTED] as its tax identification number for all purposes which may require Company to report to taxing authorities monies paid to Contractor for Work provided hereunder.
9. **Parts and Exhibits.** This Agreement consists of the following Parts and Exhibits (as checked), all of which are attached hereto and by this reference made a part hereof:

<input checked="" type="checkbox"/>	Part I	-	General Terms, Understandings and Obligations of the Parties
<input checked="" type="checkbox"/>	Part II	-	Specific Terms and Conditions
<input type="checkbox"/>	Part III	-	Instructions and Information to Bidders
<input checked="" type="checkbox"/>	Part IV	-	Fixed Fee Proposal
<input checked="" type="checkbox"/>	Exhibit A	-	Scope of Work
<input checked="" type="checkbox"/>	Exhibit B	-	Plans and Specifications
<input checked="" type="checkbox"/>	Exhibit C	-	Materials to be Furnished by Company
<input type="checkbox"/>	Exhibit D	-	Reserved
<input checked="" type="checkbox"/>	Exhibit E	-	Minimum Insurance Requirements
<input checked="" type="checkbox"/>	Exhibit F	-	Work Offer(s)
<input checked="" type="checkbox"/>	Exhibit G	-	Contractor's Completion Affidavit
<input type="checkbox"/>	Exhibit H	-	Reserved
<input checked="" type="checkbox"/>	Exhibit I	-	Safety Procedures
<input type="checkbox"/>	Exhibit J	-	Reserved
<input checked="" type="checkbox"/>	Exhibit K	-	Payment Authorization Procedure
<input checked="" type="checkbox"/>	Exhibit L	-	Work Change Order
<input type="checkbox"/>	Exhibit M	-	Reserved

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written, but is effective on the Effective Date.

"COMPANY"

Rover Pipeline LLC

Signature: _____

Name: _____

Title: _____

"CONTRACTOR"

U.S. Pipeline, Inc.

Signature: _____

Name: _____

Title: _____

MASTER CONSTRUCTION AGREEMENT

PART II

SPECIFIC TERMS AND CONDITIONS

1. **Definitions.** All definitions in Part I of this Agreement apply also to this Part II.

"*Affiliate*" as used herein shall mean with respect to Company, any entity, including corporation, company, partnership or joint venture that directly or indirectly through one or more intermediaries' controls, is controlled by, or is under common control with another entity of Company's parent or affiliated companies.

"*Business Day*" as used herein shall mean means any day which is not a Saturday, Sunday or other legal holiday in which banking institutions in the State of Texas are not required to be open.

"*Clean-up Completion Date*" as used herein shall mean the date on which, in the Company's judgment, the Contractor has fully and finally completed, to the Company's satisfaction, all Work under this Agreement including, without limitation, the achievement of the final right-of-way seeding and final restoration Work.

"*Company's Premises*" includes all work places, land, right-of-way easements, surface easements, property, buildings, drilling rigs, gas terminals, temporary and permanent structures or installations, vehicles, helicopters, airplanes and other conveyances owned by, leased to, operated by and under the control of Company, its parent and/or affiliated companies or otherwise used for Company's, its parent's and/or affiliated companies' business (including all land and offshore facilities).

"*Company's Representative*" as used herein shall mean the individual designated in writing by Company by letter to Contractor or in the Work Offer as the person having general authority to decide questions and resolve problems raised by Contractor or occurring in relation to the Work. The Company's Representative shall also have authority to delegate to inspectors or other Company's instructed personnel, designated duties in connection with the quality, inspection and progress of the Work; provided, however, that the Company's Representative shall not have authority to delegate its duties under Sections 11 and 16 herein.

"*Drawings*" as used herein shall mean all graphs, alignment sheets, depictions, and other visual layouts prepared by Company to describe the Work.

"*Final Completion Date*" as used herein shall mean the date on which, in the Company's judgment, the Contractor has fully and finally completed, to the Company's satisfaction, all Work under this Agreement including, without limitation, the achievement of the In-Service and Clean-up Completion Dates and has fully demobilized from the Site.

"*Hazardous Materials*" shall have the meaning set forth in Section 19(c) of this Agreement.

"*In-Service Date*" as used herein shall mean the date on which, in the Company's judgment, the Work is capable of being placed in service even though not completed and accepted and which date by this Agreement Contractor must achieve.

"*Notice to Proceed*" as used herein shall mean a formal document, issued by Company, directing Contractor to commence the Work specified and to mobilize the resources applicable to the Work specified in such document.

"*Progression Rate*" as used herein shall mean that daily average of linear feet of mainline pipe welded by Contractor during the term of this Agreement, calculated by dividing the total aggregate number of linear feet welded by the total aggregate number of Weld Days.

"Site" shall mean any physical location or locations along the pipeline route, where the Work is to be performed, including any off-Site work, contractor yards or storage facilities.

"Waste" as used herein shall include, but not be limited to, any garbage, refuse, sludge and other spent or discarded material, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural activities or from community or individual activities, excluding, however, all waste classified as "Hazardous Waste" pursuant to the Resource Conservation and Recovery Act, as amended; "toxic waste" pursuant to the Toxic Substances Control Act, as amended; or asbestos.

"Weld Days" as used herein shall mean the total aggregate number of days in which the Contractor is working between the 20th working day after Contractor commences construction Work and the last day in which Contractor fully and finally completes mainline welding Work.

"Work" as used herein shall mean the doing of all things described in the Scope of Work defined in Part I all in accordance with the terms, conditions, and standards of the Agreement as well as any other additional things as may be necessary to achieve the intent of this Agreement in a timely manner.

"Work Offer" as used herein shall be Contractor's proposal for Work, to be in substantially the form attached as Exhibit F.

2. **Work Offer.** If Work performed under this Agreement is to be performed on a Work Offer basis, Contractor shall provide to Company a Work Offer in substantially the form attached hereto as Exhibit F or a proposal which shall be attached to the Work Offer and specifically agreed in writing and incorporated therein. The Work Offer shall describe in detail the scope of Work to be accomplished on the specific project, and shall include, as applicable: (1) a detailed description of the Work to be performed; (2) designation of the rates and/or classifications of the service to be provided or of Contractor's employees who will perform the work (in accordance with Contractor's price quotation); (3) site and location of work project and project name; (4) the date Contractor shall commence Work; (5) any special conditions or instructions relating to the Work to be performed; (6) a list of Company furnished materials, if any, and the location where said materials may be picked up by or delivered to Contractor. If Work under this Agreement is to be performed pursuant to a Work Offer, the Work Offer must be signed by both the Contractor and Company prior to Contractor proceeding with any particular project, unless Company has given Contractor written authorization otherwise. Contractor understands and agrees that Work to be performed pursuant to Company's Work Offer shall be performed in compliance with and under the terms, conditions and provisions of this Agreement as if this Agreement were incorporated fully in said Work Offer, and that said Work Offer shall become a part of, and shall be governed by this Agreement. Contractor recognizes that this Agreement is not exclusive and does not guarantee Contractor any work or any minimum volume of work. Termination or suspension of Work under any Work Offer, in whole or in part, shall not diminish Contractor's liability or obligation to continue prosecution of Work under any other Work Offers.
3. **Time Requirements.** Time being of the essence in the performance of this Agreement, the Contractor agrees to prosecute the Work regularly, diligently and uninterruptedly at such rate of progress to meet the Completion Dates specified in Part I. Contractor acknowledges that the time requirements herein provided are both reasonable and realistic.

Company will devote its best efforts to furnishing those items of material or equipment to the Contractor at the storage site(s) noted herein, in Part I, or in Exhibit C which the specifications require Company to furnish, if any, in accordance with the delivery schedule appearing therein; however, Contractor shall adjust and coordinate its crew's activities to actual material and equipment deliveries, and, unless specified otherwise in Contractor's Fixed Fee Proposal, attached hereto as Part IV, no additional time will be allowed Contractor for any slippage in such delivery dates, unless Company's Representative, in writing, concedes the necessity thereof and specifies the extent of such additional time allowance.

4. **Schedule and Completion.** At the time of execution of this Agreement, Contractor shall submit to Company a construction schedule and progress chart showing its projected rate of progress toward completion of the Work

and shall meet the In-Service Date as set forth in this Agreement. The construction schedule and other progress reporting requirements shall be in accordance with the requirements of this Agreement.

5. **Inspection and Responsibilities for the Work.** The Company's Representative will visit the Work site at intervals appropriate to keep familiar generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Agreement. However, the Company's Representative will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.

Except as required by law, the Company's Representative will not be responsible for, and will not have control or charge of, the means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the Work, and the Company's Representative will not be responsible for Contractor's failures to carry out the Work in accordance with the Agreement. The Company's Representative will not be responsible for or have control or charge over the acts or omissions of the Contractor, its subcontractors, or any of their agents or employees, or any other persons performing the Work.

The Company's Representative shall at all times have access to the Work wherever it is in preparation or progress, and to any other location where equipment or material for the Work, if any, is being fabricated or stored by the Contractor or its subcontractors. All Work shall be performed in a workmanlike manner and shall meet with the approval of Company's Representative; provided, however, that no inspection or suggestion by Company Representative or Company employees or agents shall operate to control the method of performance of the Work hereunder, the manner and method of performing the same being under the sole control and direction of Contractor, Company having interest only in the results obtained, and Contractor shall perform all Work hereunder as an independent contractor.

6. **Representations and Warranties.** With respect to this Agreement and any Work Offer (where applicable), Contractor covenants, warrants and represents to Company that:

- (a) The Work will be accomplished in a good and workmanlike manner in accordance with Company's approved practices and standards, with approved practices and standards of the industry, and with all plans and specifications made a part of this Agreement. Contractor assumes sole responsibility to assure that the Work is accomplished in accordance with any and all prudent and applicable safety standards. Contractor shall employ such methods, tools and equipment in the performance of the Work under this Agreement as will ensure work of reasonable accuracy. In the event of a warranty claim by Company for Work or re-work caused by Site conditions or other factors unrelated to Contractor's performance of the Work hereunder, Contractor shall be compensated in accordance with the requirements and price structure in Part IV. Contractor shall not be entitled to additional compensation of any kind if Work or the necessity of re-work is caused by Contractor's actions or inactions or the performance of defective or non-conforming Work.
- (b) Contractor is engaged in the business of, and has developed the requisite expertise for performing the Work. Contractor and its agents, employees and subcontractors have the capability, experience, expertise and means required to perform the Work and the Work will be performed using personnel, equipment and materials qualified and/or suitable to do Work requested. Contractor acknowledges that Company is relying on Contractor's expertise and knowledge in its performance of the Work.
- (c) Contractor has authority to do business in the state in which the Work is to be performed.
- (d) Contractor shall comply with all valid applicable federal, state and local laws, ordinances and regulations thereunder, issued or promulgated by units of government and regulatory bodies with jurisdiction over any aspect of the Work. Contractor shall secure, at its expense, all necessary permits, easements, master joint use and maintenance agreements, and licenses for the performance and completion of the Work, including but not limited to, the operation, hauling and transportation of all materials and/or equipment needed, used or supplied in and for the Work, and Contractor shall pay in connection therewith, without reimbursement from Company, all valid and applicable fees, assessments or taxes levied by units of government with jurisdiction.

- (e) Upon completion of the Work, the site as it relates to the Work performed by Contractor will comply with the requirements of all permits and all valid and applicable statutes, ordinances, orders, rules and regulations of the federal, state, and local governments having jurisdiction thereof.
- (f) It shall be the responsibility of the Contractor to examine, and Contractor specifically represents that it has carefully examined the Agreement, including all drawings, specifications, and special conditions, if any; that it has inspected the sites and routes of the Work, and is acquainted thoroughly with all conditions likely to be encountered in performing the Work. In relation to the project site, Contractor has taken into account all facets of the job including, but not limited to, the items listed below as they relate to the specifications and the conditions which may be encountered in performing the Work, and Contractor's price reflects consideration of all of them.
 - 1. Low areas, which could be wet during construction.
 - 2. Normal or abnormal weather conditions in accordance with and subject to Section 8 of Contractor's Fixed Fee Proposal, attached hereto as Part IV.
 - 3. Completion of project in order to meet In-Service Date.
 - 4. Labor conditions and availability.
 - 5. Rail locations.
 - 6. Material type and size.
 - 7. Road load limit.
 - 8. Special taxes, assessments, or use fees.
 - 9. Availability and disposal of clean, non-alkaline water for hydrostatic testing.
 - 10. Crossing of Company or third party pipelines.
 - 11. Equal Opportunity/Affirmative Action/Drug Testing responsibility.
 - 12. Applicable federal, state and local laws, ordinances, statutes, rules and regulations.
 - 13. Applicable federal, state and local environmental safety standards.
 - 14. All rock removal and disposal.
- (g) Contractor shall make timely payments to all materialmen, subcontractors and suppliers for materials and services furnished by them for the Work, and failure of Contractor to so perform shall be deemed a breach hereof. In the event any of Contractor's materialmen, subcontractors, or suppliers invoice Contractor for late payment fees of any kind, such fees or expenses shall be at Contractor's sole cost and liability.
- (h) Contractor warrants good title to all Work and warrants and guarantees that title, when it passes to and vests in Company, will be free and clear of any and all liens, claims, charges, security interests, encumbrances and rights of others of any type or kind.
- (i) Contractor shall cooperate with Company's lender and shall furnish such information as requested by the lender related to the Work hereunder. Contractor agrees to consent to the assignment of this Agreement to Company's lender upon request.

7. **Guarantees.** Contractor shall request guarantees with respect to machinery, equipment, materials, and work from all vendors, subcontractors and construction contractors from which Contractor procures machinery, equipment, materials or work in connection with Work performed hereunder, and will make such guarantees available to Company to the full extent of the term thereof. Such guarantees will extend for at least twenty-four (24) months from Company's final acceptance of the Work, and such guarantees will guarantee the material and equipment to be free of faulty design (where materials or equipment are designed by vendor or subcontractor), workmanship and materials, and that the materials and equipment comply with Company's specifications. Such guarantees shall run directly to Company and its affiliates, and Contractor shall render all reasonable assistance to Company in enforcing such guarantees, including cooperation with Company in litigation brought to enforce such guarantees. If a vendor or subcontractor fails to provide such guarantees or is unable or unwilling to guarantee the material and equipment to be free of faulty design, workmanship and materials by reason of the vendor or subcontractor relying upon Contractor's process or mechanical calculations, in the design and manufacture of the materials and equipment, the Contractor shall guarantee to Company and its successors and assigns that such materials and equipment will be free of faulty design, materials and workmanship for a period

of twenty-four (24) months from Company's final acceptance of the Work. Contractor guarantees the Work for a period of twenty-four (24) months from Company's final acceptance of the Work. In the event of a claim by Company for Work or re-work caused by Site conditions or other factors unrelated to Contractor's performance of the Work hereunder, Contractor shall be compensated in accordance with the requirements in Part IV. Contractor shall not be entitled to additional compensation of any kind if Work or the necessity of re-work is caused by Contractor's actions or inactions or the performance of defective or non-conforming Work.

8. **Rights Reserved to and Material Furnished by Company.** Company shall furnish to Contractor, at Company's expense, certain materials and supplies needed for the completion of the Work as set out by type, quantity, and delivery point in the specifications hereto. All excess materials not needed and used in the Work will be owned by Company and returned by Contractor to Company at locations designated by Company. In the event damage or loss of said stocks of materials occurs, Company shall not be liable for the costs of extra materials, transportation, expediting fees, stand-by charges for Contractor or its subcontractors, vendors, agents or representatives.

All risks of damage or loss to said stocks of materials by pilferage, vandalism or casualty of any nature shall be Contractor's risk after delivery and unloading of such materials at the delivery points noted in the specifications.

Company reserves to itself and its employees the exclusive right to operate such existing and connected plant and system equipment as may be located at or near the site of Work, and Contractor agrees to instruct and direct Contractor's employees, agents, and subcontractors, and their employees and agents, to refrain from operating or tampering with such equipment and recognizes that Contractor's failure or that of its employees, agents, or subcontractors in this regard will as to the consequences thereof, entitle Company to the protection and reimbursement provided for in the indemnity provisions of this Agreement.

9. **Risk of Loss and Passage of Title.**

- (a) Contractor shall be responsible for all materials, equipment and/or Work until achieving the In-Service Date and shall be required to repair, to the satisfaction of Company, or pay for any loss, injury or damage which said materials, equipment and/or Work may sustain from any source or cause whatsoever before the In-Service Date. Contractor, at its sole cost, shall be responsible for and obligated to replace, repair, or reconstruct the Work and any material, equipment, or supplies furnished for the Work which is lost, damaged or destroyed prior to the In-Service Date however such loss shall occur. Contractor shall be responsible for repair and replacement of any of Company's other property, other than the Work covered by this Contract, or the property of third parties which is lost, damaged, or destroyed by the act or omission of Contractor, its employees, agents, and subcontractors.
- (b) Title to the Work or any part thereof shall pass to Company when payment for the Work or any part thereof is made. The provisions of Section 9(a) shall govern the risk of loss under this Agreement, notwithstanding the provisions of this Section 9(b) respecting passage of title.

10. **Correction of Work.** When it appears to Company during the course of the Work that any of the Work does not reasonably conform to the provisions of this Agreement (including the Work Offer where applicable, and any and all drawings and specifications), Company shall notify Contractor of such non-conformity and Contractor shall, at its sole expense and without reimbursement from Company, promptly make the necessary corrections so that such Work will so conform. In addition, Contractor shall, at its sole expense, promptly correct, repair, or replace any defects, deficiencies, errors or omissions in workmanship in the Work performed by Contractor or any subcontractor of Contractor, or any failure in any part of the Work, provided Company notifies Contractor within forty-five (45) calendar days of the discovery by Company of any such defect, deficiency, error or omission. Upon Contractor's failure to promptly correct said Work hereunder, Company may make the necessary corrections and may invoice Contractor for the reasonable cost thereof. Failure of Company to notify Contractor of any such non-conformity shall not diminish or otherwise release Contractor of its obligation to correct same, nor shall such failure to notify be considered acceptance of the Work. In the event the Work performed by Contractor for Company is incorrect, defective or otherwise in error, the Contractor shall indemnify and hold Company, its parent and affiliated companies, and limited partnerships in which Company, its parent and/or affiliated companies act as general partner, and their officers, directors,

employees and agents harmless from and against all damages, losses, costs, and expenses (including attorney's fees) which Company may incur by reason of Contractor's error.

11. **Extra Work - Changes.** Company may require Contractor to perform Work or furnish materials or equipment, or the use thereof, in connection with the Work which are not included in this Agreement (hereinafter referred to as "Extra Work"). Extra Work may be occasioned by changes in design or specifications requiring Work of both a materially different nature, kind and cost from that contemplated at the time of execution of this Agreement, or the performance of other or additional Work incident to the completion of the project or facilities here involved, but not in contemplation of the parties at the time of execution of this Agreement. Contractor shall not perform any Extra Work without first having secured written authorization from Company (by Work Offer or Work Change Order in the form attached as Exhibit F and L) which must be signed by Company's Representative. Such authorization shall describe the Work to be done and specify the price to be paid therefore shall be as described and in accordance with the relevant Work item set forth in Contractor's proposal attached hereto as Part IV. Should Contractor perform any Extra Work without advance written authorization from Company Representative such Extra Work shall be at Contractor's expense.

The Company shall have the right at any time (without invalidating this Agreement), to require Contractor to perform Extra Work by issuing a Work Change Order to the Contractor, signed by Company's representative, requesting such Extra Work in the format attached hereto as Exhibit L. The Contractor shall not make or proceed with the performance of any Extra Work or supply or use additional materials of any kind or character with respect to such Extra Work, unless pursuant to a fully executed Work Change Order. All Extra Work performed by Contractor or additional materials of any kind used on the Work without the Company's prior written approval shall be at Contractor's sole cost and liability. It is understood and agreed that the Company is not authorized to verbally waive, amend or release any obligation of Contractor under the Agreement or to approve Extra Work unless in writing and Contractor shall not rely upon any verbal authorization in performing Extra Work.

The parties stipulate that, if so directed by Company, Contractor's acceleration of its Work or Contractor's execution of Work in winter conditions if necessitated solely by a Company caused delay may constitute Extra Work under this Agreement entitling Contractor to either of the following: (i) additional compensation related to such acceleration; or (ii) an extension in time to perform its Work under the Agreement.

12. **Use of Completed Portions of the Work.** Company shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding that the time for completing the entire Work or such portions thereof may not have expired, but such taking possession and use shall not be deemed an acceptance of any Work not completed as specified. If such prior use increases the cost of or delays the Work, Contractor shall be entitled to an equitable adjustment in its compensation and time allowed for performance.

13. **Termination and Interruption.**

(a) **Termination - Contractor's Default.** In the event of default or failure by Contractor under this Agreement, Company shall notify Contractor in writing of the default or failure and allow Contractor no less than fourteen (14) days to cure its default or failure. In the event Contractor does not cure its default within the specified cure period, Company may terminate performance of Work under this Agreement or an applicable Work Offer, in whole or in part, by giving Contractor one (1) days' notice in writing, should at any time during its performance of this Agreement it appear to Company that Contractor:

1. fails, refuses or neglects to supply a sufficiency of properly skilled workmen or equipment, or materials and supplies it is bound to supply hereunder, in proper quality or quantity to maintain the rate of progress necessary to the completion of the Work within the time period specified in the foregoing Section 3 ("Time Requirements");
2. fails in any other respect to prosecute the Work or any separable portion thereof with the promptness and diligence required for the fulfillment of said Time Requirements;

3. fails in the performance of any of the other agreements or undertakings on its part contained herein;
4. is adjudged bankrupt, or makes a special assignment of the proceeds hereof without consent of Company or makes a general assignment for benefit of creditors, or becomes insolvent, or should Company conclude, on evidence deemed by it to be sufficient, that Contractor's financial position is insecure;
5. fails to make payment to its subcontractors, materialmen, sub-vendors, laborers, agents or representatives providing Work or services on the project;
6. if required, fails to provide the letter of credit within the time requirements set forth in Section 23 of Part II of this Agreement.

Company also may immediately terminate this Agreement if Contractor is cited for failure or failures to observe the Occupational Safety and Health Act of 1970, as amended, and the regulations issued thereunder, which citations and failure in the judgment of Company will adversely affect the proper and timely completion of the Work or the necessary operations and work of Company, or for breach of provisions of Section 25 hereof.

Company may finish the Work by whatever method it may deem expedient including the hiring of another contractor or contractors under such form of contract as Company may deem advisable. In such case, Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the amount to be paid on this Agreement shall exceed the expense of finishing the Work, including compensation for additional managerial and administrative services and such other costs and damages as Company may suffer, such excess shall be paid to Contractor. If such expense, compensation, costs and damages shall exceed such unpaid balance, Contractor and its sureties shall be liable for and shall pay the difference to Company.

- (b) **Termination Due to Conditions.** In the event that the Work will be indefinitely delayed due to a lack of materials or right-of-way that Company is bound to supply hereunder, or if any federal, state, or other regulatory authority shall take any action, or shall refrain from doing any act, such as granting a permit necessary for commencement, execution, or completion of the Work, or should any other conditions arise which, in Company's judgment, shall make it advisable to cease or terminate Contractor's right to proceed with all or any part of the Work under this Agreement, Company may do so by giving Contractor two (2) days written Notice of such partial or complete cancellation or termination.

If Work is terminated due to conditions at any time prior to March 1, 2017, Company shall pay Contractor for Work which has been satisfactorily performed to the date of termination for which Contractor has not previously been paid by Company, in accordance with Section 16 hereof. Company shall incur no additional liability whatsoever to Contractor, including but not limited to, Contractor's costs associated with proposal preparation, the purchase of equipment or materials or supplies, and the hiring or reassignment of employees.

If Company terminates this Agreement due to conditions after March 1, 2017, Company shall pay Contractor, as its sole and exclusive liability for Work which has been satisfactorily performed to the date of termination for which Contractor has not previously been paid by Company plus a termination fee of one million thirty-seven thousand eight hundred sixty-eight dollars and sixty-five cents (\$1,037,868.65).

- (c) **Termination without Cause.** Either party may terminate performance of Work under this Agreement or any applicable Work Offer, in whole or in part, by giving the other party thirty (30) days' notice in writing. Contractor, however, may not terminate this Agreement as to any particular project upon which Work has been commenced. Upon such termination final payment shall be paid as follows:

1. If Company so terminates, Company shall pay Contractor:

The sum of:

- i. The amount owed for the Work satisfactorily performed prior to the effective date of termination to be paid in accordance with Section 16 herein, and;
- ii. The reasonable costs of settlement of the Work terminated, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data; and storage, transportation and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

Less:

- iii. All advance payments to the Contractor under this Agreement;
- iv. Any claim which the Company has against the Contractor under this Agreement, and
- v. The agreed price for, or the proceeds of the sale of, materials, supplies or other things acquired by the Contractor or sold under this termination provision and not recovered by or credited to the Company.

2. If Contractor so terminates, Company shall pay Contractor:

The sum of:

- i. The amount owed for the Work satisfactorily performed prior to the effective date of termination to be paid in accordance with Section 16 herein, and;

Less:

- ii. The reasonable costs of settlement of the Work terminated, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data; and
- iii. All advance payments to the Contractor under this Agreement;
- iv. Any claim which the Company has against the Contractor under this Agreement, and
- v. The agreed price for, or the proceeds of the sale of, materials, supplies or other things acquired by the Contractor or sold under this termination provision and not recovered by or credited to the Company.

In no event shall the amount owed to Contractor under (a), (b) or (c) of this Section exceed the total Agreement price, nor shall Contractor be entitled to loss of anticipated profit or unabsorbed overhead with regard to terminated Work.

- (d) Upon receipt of notice of termination pursuant to Section 13(a):

1. Contractor shall immediately discontinue further Work so terminated.
2. Company may take possession of all materials, equipment, tools and appliances thereon belonging to or under the control of Contractor, or may notify and require Contractor to forthwith remove its equipment, tools and appliances from the site of the Work (and in either case its personnel)
3. As directed by Company, Contractor shall transfer title and deliver to Company the Work in process, completed Work, supplies, and other materials produced or acquired for the Work

terminated, as well as the completed or partially completed plans, drawings, information, and other property that, if the Agreement had been completed, would be required to be furnished to Company.

4. Contractor shall finish only such Work, if any, as directed by Company. Contractor shall place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete any continued portion of the Work. Contractor shall also terminate all subcontracts, to the extent they relate to the Work terminated, or, as directed by Company, and to the extent assignable, assign to Company all right, title and interest of Contractor under such subcontracts.
5. Contractor shall take any action that may be necessary, or that Company may direct, for the protection of the property related to this Agreement that is in the possession of the Contractor and in which Company has or may acquire an interest.

Failure of Company to exercise any of the rights given it under this Section in any instance or instances shall not be deemed or adjudged a waiver of such right in other instances nor shall such failure to exercise said right excuse Contractor from compliance with the provisions of this Agreement nor prejudice rights of Company to recover damages for such default.

Termination of this Agreement shall not relieve any party from any obligation accruing or accrued to the date of such termination, nor deprive a party not in default of any remedy otherwise available to it. The indemnification provisions of this Agreement shall survive such termination relative to all claims and other indemnified matters, discovered or undiscovered, arising out of, in connection with, or incident to this Agreement.

- (e) **Interruption.** Company may temporarily interrupt or shut down all or a portion of the Work hereunder:
 - (i) After two (2) days' advance Notice to Contractor in the event Company is unable to provide right-of-way or such necessary materials which it is obligated by this Agreement to supply, or
 - (ii) Upon reasonable advance Notice, if any state, federal, or other regulatory authority shall take any action or shall fail to issue or shall withhold any authorization, which, in Company's judgment, shall make proceeding with the Work inadvisable or imprudent. If all or a portion of the Work is thus temporarily shut down, Contractor shall be paid its unrecoverable costs and expenses incurred directly applicable to such interruption.

14. **Force Majeure.**

- (a) **Force Majeure.** No delays in or failure or omission in the performance of any obligation under this Agreement by Contractor or Company, other than payment of money, shall constitute default under this Agreement if and to the extent such delay or failure of performance is caused by occurrences beyond the control of Contractor or Company, and which by the exercise of due diligence such party shall not have been able to avoid or overcome, including, but not limited to: acts of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or request of any governmental authority; fires, floods, explosion, accidents; strikes, walkouts, rioting (but not protesting) or other concerted work stoppages ("Force Majeure").
- (b) **Procedure for Calling Force Majeure.** If a party wishes to claim relief from the performance of its obligations on account of any event or circumstance of Force Majeure (hereinafter, the "Affected Party"), then the Affected Party shall give notice to the other party of such event or circumstance as soon as reasonably practicable after becoming aware of such event or circumstance.

Each notice served by an Affected Party to the other party pursuant to this Section 14(b) shall specify the event or circumstance of Force Majeure in respect of which the Affected Party is claiming relief. Noncompliance with the procedure specified herein shall relieve the other party from accepting the

Affected Party's claim until notice is so provided. The Affected Party shall, by reason of any event or circumstance of Force Majeure in respect of which it has claimed relief under this Section 14(b):

- (i) use its reasonable best efforts to mitigate the effects of such Force Majeure and to remedy any inability to perform its obligations hereunder due to such events as promptly as reasonably practicable.
- (ii) furnish weekly reports to the other party regarding the progress in overcoming the adverse effects of such event of Force Majeure.
- (iii) resume the performance of its obligations under this Agreement as soon as is reasonably practicable after the events of Force Majeure are remedied or cease to exist.

When the Affected Party is able, or would have been able if it had complied with its obligations under this Section 14(b), to resume the performance of all of its obligations under this Agreement affected by the occurrence of an event or circumstance of Force Majeure, then the period of Force Majeure relating to such event or circumstance shall be deemed to have ended.

- (c) **Effects of Force Majeure.** An Affected Party shall be relieved from any liability for the non-performance of its obligations under this Agreement where and to the extent that such non-performance is attributable directly to the event of Force Majeure. The existence of an event of Force Majeure shall not relieve either Company or Contractor of any obligations that accrued prior to the commencement of such event of Force Majeure. Contractor may be entitled to reimbursement of actual costs and expenses related to the event of Force Majeure, without profit, as set forth in its Fixed Fee Proposal, attached hereto as Part IV.

15. **Records and Audit.** Contractor is required to maintain receipts, canceled checks, vouchers, records, invoices for purchases, rate schedules, etc., to sufficiently document and properly reflect all costs and expenditures incurred by Contractor, and the disposition of any materials, tools, or equipment provided by Company unless such costs and expenditures are compensated as a Lump Sum component under Part IV of this Agreement. Company shall have the right to audit only quantities incurred or expended of the Lump Sum components set forth in Part IV. Such records maintained shall include, but not be limited to, support for costs invoiced to the Company, all direct and indirect costs incurred by the Contractor, and other evidence which would enable Company employees to evaluate Contractor's compliance to Company's policies and procedures. All costs and expenditures incurred by Contractor in the completion of the Work shall be recorded in such form and detail as to enable ready computation and audit of such costs. Contractor shall preserve and make available all such records for a period of four (4) years after completion or termination of the Work. Contractor will require all subcontractors to comply with the provisions of the Section by insertion of these requirements in a written agreement between Contractor and subcontractor.

Such records shall be open to inspection and subject to audit and reproduction at any time during performance of the Work or thereafter, during normal working hours by Company's agent or its authorized representatives, including any public accounting firm selected by it. Inspection and audit shall be performed as deemed necessary by the Company, to allow for the adequate evaluation and verification of the Contractor's costs and subsequent invoices, Work Orders, etc., submitted to the Company. Records which will be subject to audit include, but are not limited to: (a) payroll records accounting for total time distribution of Contractor's employees working full or part-time on the Work (to permit tracing of payroll records and related tax returns), as well as canceled payroll checks, or signed receipts for payroll payments made in cash; (b) invoices for purchases, receiving and issuing documents, and all other inventory records for Contractor's stores stock or capital items; (c) paid invoices and canceled checks for material purchased and for subcontractors' and any other third parties' charges, including, but not limited to, equipment rental; and (d) travel, lodging, meals and entertainment documentation (including, but not limited to, employee expense reports and Contractor facility usage reports). Company's right to audit shall extend to any Change Orders or other price adjustments made in connection with this Agreement.

Company's agents shall have prompt access to Contractor's facilities and shall be provided with adequate working space and telephone in order to conduct the audit. These will be provided at no cost to the Company. If an audit inspection or examination conducted in accordance with this Section discloses overcharges of any nature by Contractor to Company greater than \$5,000 or 1% of total billings for Work performed under this Agreement, whichever is greater, then the Contractor shall reimburse Company for all costs incurred to conduct the audit.

Contractor shall require all subcontractors to comply with these audit provisions. Contractor's subcontractors will cooperate fully in furnishing in an expeditious manner any records, documents, and any other information requested by Company.

16. General Payment Conditions.

- (a) Once every fourteen (14) days following commencement of the Work, Contractor shall prepare an invoice for the amount accrued to Contractor for Work satisfactorily completed during the period covered by such invoice in subject to and in accordance with the requirements of Section 15 of Part IV and the Approval Flow Diagram attached thereto as Attachment D. Upon approval of such invoice in accordance with the requirements of Section 15 of Part IV and the Approval Flow Diagram attached thereto as Attachment D, and subject to the further provisions hereof, Company shall pay Contractor the amount accrued as shown by the invoice, less any amounts reflecting payment made on previous invoices within fourteen (14) days from Company's receipt of the invoice and supporting data. Company shall withhold ten percent (10%) of the amount of such payments as retainage, and if applicable, an additional 10% as reimbursement for any applicable Prefunding Payment in accordance with and subject to the requirements set forth Part IV of this Agreement. If Contractor fails to submit its invoice once every thirty (30) days following commencement of the Work, a ten percent (10%) delinquent submission penalty will be credited to the amount of such invoice for each thirty (30) day period such invoice is delinquent. Company shall have no obligation to compensate Contractor for work invoiced two hundred ten (210) days or more following completion of the Work so invoiced.
- (b) In the event Company disputes the amount or content of any invoice, Company shall not be responsible for payment of such invoice or portion of such invoice that is in dispute, until such time as the dispute is resolved.
- (c) If the Contractor fails to provide schedule updates or meet project progress reporting requirements, Company may withhold 10 % of the Contractor's then current invoice until such time as the Contractor satisfies the applicable requirements. Any schedule submitted by Contractor depicting interim milestones or Completion Dates different from those set forth in Section 4 of Part I and the schedule submitted by Contractor prior to the Effective Date of this Agreement is void and shall not be binding on the parties unless explicitly accepted by Company in writing.
- (d) All invoices must reference this Agreement (and Work Offer Number, if applicable) in order to be paid.

As a condition to payment, all invoices when submitted by Contractor must include detailed and sufficient back-up as directed by Company. Such back-up shall include, at a minimum, certified payrolls as well copies of daily time sheets for each classification showing actual hours worked, description of work performed, progress, valid receipts for all reimbursable expenses, if any, Contractor's aging report, equipment tickets, and material tickets.

- (e) Final payment to Contractor shall be made by Company only after presentation of Contractor's final adjusted invoice (initialed and dated by Company's representative), accompanied by an executed Contractor's Completion Affidavit and General Contractor's/Engineer's Final Lien Waiver and Affidavit of Payment, samples of which is marked Exhibit "G" and attached hereto), and properly supported by evidence (including, if requested by Company, releases or waivers of all liens, or claims for property damage and proof of payment of all taxes and other obligations assumed hereunder, arising out of or in connection with the Work by all persons, subcontractors, vendors, firms, corporations, or agencies of government on whose behalf such liens or claims could be or have been filed) satisfactory to Company,

that all charges for labor and material incorporated in the Work and all other damages or indebtedness connected with the Work for which such liens or claims could be filed have been paid and that the Work is free of all liens, claims and encumbrances. Such payment shall be made by Company pursuant to Contractor's final adjusted invoice following Company's receipt of evidence of payment of obligations and receipt of such invoice and final inspection report from Company's representative advising that the Work has been satisfactorily completed. Company's payment of this invoice shall constitute its acceptance of the Work. Acceptance by Contractor of such final payment shall constitute a waiver by it of all claims against Company related to or arising out of this Agreement. Such final acceptance and payment by either party hereto shall not, however, release Contractor and its surety from any unperformed obligations hereunder.

- (f) It is understood and the parties hereto agree that the sums to be paid, as set forth above, shall be the entire consideration to be received by Contractor from Company for the Work performed hereunder, and that said sums shall include any and all taxes and contributions as set forth in Section 17 herein below. Contractor shall, where applicable, separately list on its invoices all valid sales taxes on services provided hereunder.
- (g) Notwithstanding anything contained herein to the contrary, the Company, in its sole and absolute discretion, may withhold any further payment to the Contractor on account of subsequently discovered evidence, nullify the whole or any part of approved invoices to such extent as may be necessary to protect the Company from loss on account of:
 - i. Defective performance of the Work not remedied;
 - ii. Environmental non-compliance that has not been remedied or addressed;
 - iii. Lien, lien notices and/or claims for payment filed or actions taken or evidence indicating the probable enforcement of a claim for payment;
 - iv. Failure of the Contractor to make proper and prompt payment to Subcontractor for material or labor;
 - v. Damage to another contractor;
 - vi. Damage to the Company's property;
 - vii. Damage to the property of others; or
 - viii. Failure of the Contractor to perform or satisfy any material term or provision of this Agreement.
- (h) In the event that it appears to Company that Contractor has failed to compensate its subcontractors, materialmen, sub-vendors, laborers, representatives or agents for material, equipment, or services provided to the Work, Company shall have the right, but not the obligation, at its discretion to make direct payment to any such subcontractor, materialman, sub-vendor, representative or agent and off-set the amount of such direct payment from any amount due and owing Contractor hereunder.
- (i) Company shall withhold as retainage 10% of all invoices submitted by Contractor. Contractor's retainage shall be released subject to and in accordance with the requirements set forth in Exhibit K.

17. **Sales and Use Taxes.** Prior to starting the Work and/or procurement of goods and services, Contractor shall obtain the necessary permits and licenses to remit sales, use, gross receipts and like taxes to the applicable taxing authority. Contractor agrees to indemnify Company for all taxes, penalties and interest resulting from Contractor's failure to properly remit itemized taxes to the applicable taxing authority.

(a) **Portions of Work Invoiced on a Time Plus Material Basis and/or Variations Thereof**

Upon written notice to Contractor, Company may elect to directly remit sales, use, gross receipts or like taxes to the taxing authority to whom such taxes are due and directly payable. If Company exercises such election, Company shall provide Contractor with written evidence, as required by applicable taxing authority, prior to Contractor's procurement or payment of taxable purchases of goods and services. Contractor agrees that the price to be paid for Work performed on a time plus materials basis under this Agreement includes any such sales, use, gross receipts or like taxes on materials, supplies, equipment or services furnished by Contractor and on services performed by Contractor. Contractor shall itemize

Price(s), including associated sales, use, gross receipts or like taxes for each component of Work performed on a time plus material basis of which title and possession will be transferred to Company. For portions of Work performed on a time plus material basis, Contractor shall separately list on its invoice(s) all such taxes, including the tax rate and the taxing authority to whom such taxes are due and directly payable.

(b) **Portions of Work Invoiced on a Lump Sum or Unit Price Basis**

Contractor agrees that the price to be paid for Work performed on a lump sum basis, or unit price basis (such as a price per foot installed, which includes labor plus materials), under this Agreement includes any such sales, use, gross receipts or like taxes on materials, supplies, equipment or services furnished by Contractor and on services performed by Contractor.

(c) **Other**

Contractor assumes full responsibility for and agrees to pay for, and agrees that the price to be paid by Company as set herein shall be fully inclusive of, all labor, including overtime as legally required, all overhead, and all contributions and taxes payable under federal and state social security acts, old age pension, worker's compensation laws, unemployment compensation laws and income tax laws and any other applicable laws as to all of its employees and agents engaged in the performance of the Work hereunder; and Contractor hereby agrees to indemnify and save Company harmless against the consequences of any failure by Contractor or any of its subcontractors to pay or withhold taxes, charges or compensation due on behalf of its employees or agents involved in the Work.

18. **Reserved.**

19. **General Indemnity.** One percent (1%) of the amount to be paid under this Agreement represents specific consideration to Contractor for the indemnification provided pursuant to this Agreement.

(A) **TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR AGREES TO INDEMNIFY, DEFEND, RELEASE, AND HOLD HARMLESS COMPANY, ITS PARENT AND AFFILIATE COMPANIES, PARTNERS, LIMITED PARTNERSHIPS IN WHICH COMPANY, ITS PARENT AND/OR AFFILIATED COMPANIES ACT AS GENERAL PARTNER, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, INSURERS, AGENTS AND EMPLOYEES (COLLECTIVELY "INDEMNITEES"), FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITIES OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR LOSS OR DAMAGE TO ANY PROPERTY (INCLUDING WITHOUT LIMITATION, CLAIMS FOR POLLUTION AND ENVIRONMENTAL DAMAGE), ANY CIVIL OR CRIMINAL FINES OR PENALTIES, DISCOVERED OR UNDISCOVERED, DIRECTLY OR INDIRECTLY ARISING OR ALLEGED TO ARISE OUT OF OR IN ANY WAY INCIDENTAL TO THE PERFORMANCE OF THIS AGREEMENT OR ANY WORK PERFORMED HEREUNDER (COLLECTIVELY "LIABILITIES"), TO THE EXTENT ARISING FROM THE NEGLIGENCE, BREACH OF CONTRACT OR OTHER LEGAL DUTY, OR FAULT OF CONTRACTOR. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR AGREES TO DEFEND THE INDEMNITEES FROM AND AGAINST ANY AND ALL LIABILITIES, EVEN THOUGH CAUSED BY OR ALLEGED TO HAVE BEEN CAUSED BY OR ARISING FROM THE JOINT OR CONCURRENT (BUT EXCEPTING SOLE) NEGLIGENCE, BREACH OF CONTRACT OR OTHER LEGAL DUTY, OR FAULT OF ANY INDEMNITEE. THIS INDEMNITY INCLUDES CONTRACTOR'S AGREEMENT TO PAY ALL COSTS AND EXPENSES OF DEFENSE, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES, INCURRED BY ANY INDEMNITEE. THIS INDEMNITY SHALL APPLY, WITHOUT LIMITATION TO ANY "LIABILITIES" IMPOSED ON ANY PARTY INDEMNIFIED HEREUNDER AS A RESULT OF ANY STATUTE, RULE, REGULATION OR THEORY OF STRICT LIABILITY**

INCLUDING, BUT NOT LIMITED TO, STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY. CONTRACTOR EXPRESSLY ASSUMES THE ENTIRE LIABILITY PURSUANT TO THIS INDEMNIFICATION SECTION FOR ANY AND ALL "LIABILITIES" ARISING IN FAVOR OF ANY THIRD PARTY OR GOVERNMENTAL AGENCY OR ENTITY, THE PARTIES HERETO, THEIR EMPLOYEES AND THEIR EMPLOYEES' REPRESENTATIVES AND BENEFICIARIES. THIS INDEMNIFICATION AND DEFENSE SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION, OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEES' BENEFIT ACTS. ALTHOUGH CONTRACTOR HAS CAUSED THE INDEMNITEES TO BE NAMED AS ADDITIONAL INSURED UNDER CONTRACTOR'S POLICIES OF INSURANCE, CONTRACTOR'S LIABILITY UNDER THIS INDEMNIFICATION PROVISION SHALL NOT BE LIMITED TO THE LIABILITY LIMITS SET FORTH IN SUCH POLICIES.

(B) CONTRACTOR FURTHER AGREES, EXCEPT AS MAY BE OTHERWISE SPECIFICALLY PROVIDED HEREIN, THAT THE OBLIGATION OF INDEMNIFICATION HEREUNDER SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(I) LIENS BY THIRD PERSONS AGAINST THE COMPANY, ITS PARENT AND AFFILIATED COMPANIES, AND THEIR PROPERTY, BECAUSE OF LABOR, SERVICES, MATERIALS, OR ANY OTHER TYPE OF LIEN, FURNISHED TO CONTRACTOR, ITS ASSIGNEES OR SUBCONTRACTORS, IN CONNECTION WITH THE WORK PERFORMED BY CONTRACTOR HEREUNDER AND CONTRACTOR SHALL REQUIRE ALL SUBCONTRACTORS OR VENDORS PROVIDING LABOR, SERVICES, OR MATERIALS IN CONNECTION WITH THE WORK TO EXECUTE A LIEN WAIVER PRIOR TO CONTRACTOR'S PAYMENT TO SAID SUBCONTRACTOR OR VENDOR. SAID LIEN WAIVER SHALL EXPLICITLY SET FORTH THE SUBCONTRACTOR'S RELEASE AND WAIVER OF ANY AND ALL MECHANIC'S LIEN OR RIGHT OF LIEN WHICH ACCRUES OR MAY ACCRUE TO SAID SUBCONTRACTOR OR VENDOR AND PROPERLY SETTING FORTH COMPANY AS THE OWNER OF THE WORK. CONTRACTOR SHALL PROVIDE COMPANY COPIES OF ALL EXECUTED SUBCONTRACTOR OR VENDOR LIEN WAIVERS.

(II) EXPENSES, CLAIMS, FINES, AND PENALTIES OR OTHER ENFORCEMENT CHARGES, RESULTING FROM THE FAILURE OF CONTRACTOR TO ABIDE BY ANY AND ALL VALID AND APPLICABLE LAWS, RULES OR REGULATIONS OF ANY GOVERNMENTAL OR REGULATORY AUTHORITY WITH JURISDICTION.

CONTRACTOR SHALL WAIVE AND RELEASE, AND DOES HEREBY WAIVE AND RELEASE, ANY AND EVERY MECHANIC'S LIEN OR RIGHT OF LIEN WHICH ACCRUES TO IT AT ANY TIME UPON ANY REAL ESTATE, BUILDING OR STRUCTURE OF THE COMPANY, ITS PARENT OR AFFILIATED COMPANIES, OR IF WORK IS TO BE PERFORMED ON PROPERTY OF THIRD PARTIES, EVERY MECHANIC'S LIEN OR RIGHT OF LIEN WHICH ACCRUES TO IT UPON ANY REAL ESTATE, BUILDING OR STRUCTURE OF SUCH THIRD PARTIES, AS A RESULT OF THE PERFORMANCE OF THE WORK.

WITH RESPECT TO CLAIMS AGAINST COMPANY BY CONTRACTOR'S EMPLOYEES, CONTRACTOR AGREES TO EXPRESSLY WAIVE ITS IMMUNITY AS A COMPLYING EMPLOYER UNDER THE WORKER'S COMPENSATION LAW, BUT ONLY TO THE EXTENT THAT SUCH INDEMNITY WOULD BAR OR AFFECT RECOVERY UNDER OR ENFORCEMENT OF THIS INDEMNIFICATION OBLIGATION.

(C) CONTRACTOR SHALL ASSUME ALL RESPONSIBILITY FOR, INCLUDING CONTROL AND REMOVAL OF, AND PROTECT, DEFEND AND SAVE HARMLESS COMPANY FROM

AND AGAINST ALL CLAIMS CAUSED BY CONTRACTOR OR CONTRACTOR'S EMPLOYEES, AGENTS, REPRESENTATIVES, INVITEES OR SUBCONTRACTORS, ARISING FROM POLLUTION OR CONTAMINATION, WHICH MAY BE IMPOSED UPON OR INCURRED BY OR ASSERTED BY OR ASSERTED AGAINST COMPANY BY ANY OTHER PARTY OR PARTIES (INCLUDING GOVERNMENTAL ENTITIES), IN CONNECTION WITH ANY ENVIRONMENTAL CONDITIONS (INCLUDING ANY ALLEGED EXPOSURE OF ANY PERSON TO ENVIRONMENTAL CONDITIONS) OR THE REMEDIATION OF ANY ENVIRONMENTAL CONDITIONS (WHETHER NOW KNOWN OR HEREAFTER DISCOVERED) OR ANY ENVIRONMENTAL NONCOMPLIANCE ARISING OUT OF, RESULTING FROM OR ATTRIBUTABLE TO THE PERFORMANCE OF OR FAILURE TO PERFORM THE WORK OR THE PROVISIONS OF THIS CONTRACT.

For purposes of this subsection 19(C), "Claims" shall include, without limitation, claims for personal injury or damages to or with respect to property; claims for the recovery of response costs, or actions required or orders issued under environmental laws; claims for restitution, contribution or equitable indemnity from third parties or any governmental entity; claims for injunctive relief; and other orders or notices of violation from federal, state or local agencies or courts.

As used in this contract, "Governmental Entity" or "Governmental Entities" shall include any local, state or federal government agency now or hereafter authorized to regulate environmental matters. "Hazardous Materials" means hazardous wastes, hazardous substances, hazardous constituents, toxic substances or related materials, whether solids, liquids or gases, including but not limited to substances defined as "Hazardous Wastes", "Hazardous Substances", "Toxic Substances", "Pollutants", "Contaminants", "Chemicals Known to Cause Cancer Or Reproductive Toxicity", "Radioactive Materials", or other similar designations subject to regulation under any federal, state or local laws, or any rules, regulations, plans or ordinances adopted, or other criteria and guidelines promulgated pursuant thereto, governing or regulating the use of such substances or materials, or damage to or the use of natural resources, soil, surface water, groundwater, subsurface strata or the ambient air, now or hereafter in effect (collectively the "Environmental Laws"). "Environmental Conditions" means conditions of the environment, including natural resources, soil, surface water, groundwater, subsurface strata or the ambient air, relating to or arising out of a release or threatened release of hazardous materials as a result of the Work. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, abandoning or discarding into the environment. "Environmental Noncompliance" means, but is not limited to: (a) the release or threatened release of any hazardous materials into the environment, in violation of any environmental laws; (b) the failure to have obtained permits or other authorization required under environmental laws in connection with the Work; or (c) the failure to report any release of hazardous materials as required under environmental laws. "Expenses" includes without limitation costs of investigation, cleanup, remedial or response action; financial assurances for the completion of response, remedial or corrective actions; the preparation of any required plans or analyses; retention of engineers and other expert consultants, legal counsel, capital improvements; operation and maintenance testing and monitoring costs; and administrative costs incurred by governmental entities.

IT IS THE EXPRESS INTENT OF THE PARTIES HERETO THAT THE INDEMNITY SET FORTH IN THIS SUBSECTION (c) SHALL BE APPORTIONED TO CONTRACTOR BASED SOLELY ON CONTRACTOR'S FAULT.

COMPANY DOES NOT GIVE CONTRACTOR ANY INDEMNITY OF ANY KIND IN CONNECTION WITH THIS CONTRACT OR THE WORK, AND NO SUCH INDEMNITY SHALL BE IMPLIED BY THE TERMS OF THIS AGREEMENT, THE CONDUCT OF THE PARTIES, THE RELATIONSHIP OF THE PARTIES, OR OTHERWISE.

If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or

unenforceable provision had never been contained in this Agreement. Further, it is agreed that with respect to any statutory limitations now or hereinafter in effect and affecting the validity or enforceability of the specific indemnification provisions hereof, such statutory limitations are made a part of the indemnification provisions hereof and shall operate to amend the indemnification provisions above to the minimum extent necessary to bring the indemnification provisions into conformity with the requirements of such statute and, as so modified, the indemnity provisions shall continue in full force and effect.

- (d) Contractor's Remedial Action Responsibility: With respect to any known or subsequently discovered Environmental Noncompliance or Environmental Condition, attributable to the Work, and without in any way limiting Contractor's obligations under the environmental indemnification set forth above, Contractor will be responsible for and will pay all costs in connection with all investigations, studies, cleanup, corrective action or response or remedial action required by a Governmental Entity, or by any consent decree, or court or administrative order now or hereafter applicable to the Work Site, or by any federal, state or local law, regulation, rule or ordinance now or hereafter in effect. Contractor, however, may not negotiate with, fulfill any requirements or claims made by a Governmental Entity or third party, settle or contest such requirement or third-party claim without the express approval of Company, and Company shall have the right to participate fully in any and all meetings, negotiations or decisions relevant to the investigation or remediation of Environmental Conditions at the Work Site. In the event that Environmental Noncompliance arising out of, resulting from or attributable to the Work is discovered or alleged to exist at the Work Site subsequent to the date of this Agreement, Contractor will pay all reasonable costs incurred by Company in defending and correcting the conditions which constitute Environmental Noncompliance. Company shall promptly notify Contractor of any such Environmental Noncompliance, but Company shall have the exclusive right to manage and control the resolution of such issues.
- (e) Company shall notify Contractor of any Claim that has given or could give rise to a right of indemnification hereunder or that may be presented to it by any party. Contractor shall, at its sole cost and expense, investigate, handle, respond to, and provide defense for any Claim for which it gives indemnity herein; provided that Company shall have the right and opportunity to participate in any such investigation or defense. At Company's sole discretion and option, exercisable at any time, Company may itself undertake the defense, litigation, settlement or satisfaction of any such Claim, reserving its right to seek indemnification against Contractor until after the Claim is resolved, or Company may direct Contractor to contest, defend, litigate, settle or satisfy any Claim made against Company, provided that contractor shall not settle any Claim without Company's prior written consent. In the event the Contractor, after receipt of notice of a Claim, fails to furnish a defense and indemnity as provided for under this provision, the Company shall be entitled to receive from the Contractor its attorneys' fees, costs, expenses and any amounts paid in the enforcement of this Agreement.
- (f) For all indemnities contained in this Agreement, references to Company shall mean Company, its members, affiliated companies, partners, co-owners, joint ventures, and each of its and their respective directors, officers, employees, agents, servants, representatives, affiliates, including Company's joint interest owners and the surface fee owner(s) of the real property on which the Work is being performed or to which Contractor may have access hereunder.
- (g) In the event that this Section 19 is found to be in conflict with any applicable law or governmental regulation, then to the extent necessary to resolve such conflict and only to such extent, such provision is to be deemed amended so as to be in compliance with any such law or governmental regulation.
- (h) In the event the Contractor engages a subcontractor to perform any portion of the Work, Contractor agrees that it will obtain from each such subcontractor indemnity provisions for the benefit of Company that are at least as extensive as those provided by Contractor to Company. If Contractor fails to obtain an indemnity provision from any of its subcontractors, Contractor agrees to protect, defend, indemnify and hold harmless Company in the same extent as provided above, as if Contractor were its Subcontractors and shall carry contractual indemnity insurance therefor. Contractor's Subcontractors

shall carry insurance policies substantially similar to, and in the same amount as, Contractor's policies of insurance carried hereunder.

- (i) Without limiting the scope of the foregoing obligations, Contractor agrees to procure insurance including contractual indemnity insurance to cover the indemnity obligations assumed by it hereunder.
- (j) Notwithstanding anything to the contrary contained elsewhere herein, neither Contractor nor Company shall be liable to the other for consequential, indirect, or special damages, including loss of profit, loss of throughput, loss of use, or loss of business opportunity regardless of how suffered or incurred, even if resulting from the negligence or the party seeking to enforce the terms of this waiver.

20. **Patent Indemnity.** Contractor shall indemnify and hold Company, its parent and affiliated companies, and limited partnerships in which Company, its parent and/or affiliated companies act as general partner, and their officers, directors, employees and agents harmless from any and all claims arising out of infringement of patent, copyright or proprietary rights because of use of any method, process, equipment or apparatus employed by Contractor, its assignees or subcontractors in the performance of the Work.

21. **Alternative Contribution.** If the indemnification provided for in this Agreement is unavailable to the indemnified parties with respect to any of the claims referred to therein, then Contractor, in lieu of indemnifying the indemnified parties shall contribute to the amount paid or payable by the indemnified parties as a result of such claims arising in favor of any person, corporation or other entity including the parties hereto and their employees, contractors and agents and the indemnified parties, on account of personal injuries or death or damages to property in anywise incident to or in connection with or arising out of (a) this Agreement, (b) the presence of Contractor or its employees, contractors or agents on Company's Premises, or (c) the act or omission of Contractor, its employees or agents, in proportion to Contractor's relative fault in causing such claims. It is the intention of Contractor to contribute to the amount paid or payable by the indemnified parties pursuant to this provision regardless of whether the claims arise in part from the negligence of the indemnified parties or whether the indemnified parties are more than 50% at fault. Although Contractor is a subscriber under a worker's compensation act, disability act or other employee benefit act which would limit the amount or type of damages, compensation or benefits payable by or for Contractor, Contractor expressly assumes liability pursuant to this Section of any and all claims against the indemnified parties in such proportion as is appropriate to reflect Contractor's relative fault in causing such claims arising in favor of Contractor's employees and its employees' representatives and beneficiaries even if such claims arise in part from the negligence of the indemnified parties and even if the indemnified parties are more than 50% at fault. Although pursuant to Section 22 hereof Contractor has caused the Company, its parent and affiliated companies to be named an additional insured under Contractor's policies of insurance, Contractor's liability under this Section 21 shall not be limited to the liability limits set forth in such policies.

22. **Insurance.** Contractor shall procure and maintain in effect until acceptance of the Work by Company, at Contractor's sole expense, the minimum insurance coverages set forth in Exhibit E, which shall be subject to Company's approval as to form, amount and issuing company. Contractor shall comply with all "Additional Requirements" provisions of Exhibit E and said provisions are hereby incorporated in this Section 22 as if fully set forth herein. Contractor shall submit to Company at the time Contractor executes this Agreement, a Certificate of Insurance, in form satisfactory to Company, evidencing that satisfactory coverage of the type and limits set forth hereinabove are in effect.

Should Contractor fail to comply with any of the foregoing insurance requirements, Company, in its sole discretion, may immediately terminate this Agreement. Contractor further agrees that nothing contained in Exhibit E shall relieve Contractor of any of Contractor's obligations and responsibilities contained in any Section of this Agreement.

23. **Reserved.**

24. **Safety Precautions.** Contractor shall be responsible for and take all necessary and proper safety precautions to protect from accident or injury, all persons, including its employees and its subcontractors' employees, who may

be at or on the premises where the Work is being performed. Contractor shall establish and enforce adequate, reasonable, prudent and property safety rules and procedures and emergency procedures necessary for safe completion of the Work. Contractor shall comply in all respects with Company's safety procedures set forth in Exhibit I, which are designed to comply with OSHA and regulations.

25. **Compliance with Laws and Regulations.** Contractor certifies that unless specifically exempted, all products, commodities or services furnished under this Agreement have been furnished in compliance with all applicable laws and regulations, including, but not limited to, as amended, Title VI and Title VII of the Civil Rights Act of 1967, the Equal Pay Act of 1963, and Rehabilitation Act of 1974, the Immigration Reform Control Act of 1986, and Executive Orders of the President of the United States. Contractor shall assure that each of its permitted subcontractors complies with said requirements as well. Contractor agrees to protect, defend, indemnify and save harmless Company, its parent and affiliated companies, and limited partnerships in which Company, its parent and/or affiliated companies act as general partner, and their directors, officers, employees, and agents, from all claims, suits, liabilities and costs, including attorney fees and costs of court, arising out of Contractor's or its permitted subcontractors' violation of or non-compliance with such laws, regulations, orders and guidelines.

Any breach by Contractor of any provisions contained in this Section (including, without limitation, any citation of Contractor for failure to comply with any valid law, ordinance, regulation or rule, including the Occupational Safety and Health Act of 1970 and the rules and regulations issued thereunder) which adversely affects the proper and timely completion or the performance of the Work by Contractor or affects Company's operations, shall afford Company the right, in addition to all other remedies, to invoke the Provisions of Section 13 hereof.

26. **Environmental Waste.** Contractor will remove all Waste from Company's Premises which may be generated in the course of or in connection with the Work, and shall lawfully dispose of same.

(a) **Existing Hazardous Materials.** Upon the discovery of any Hazardous Materials existing on the Site at the date of this Agreement, for which Contractor does not have liability under this Agreement, Contractor shall (i) promptly cease work in the affected area and direct its workers and subcontractors not to remove or further disturb the material or item; (ii) promptly notify Company of such discovery; (iii) use all reasonable efforts to mitigate the effects of any such discovery of the Site, any property or person, and the performance of the Work and (iv) follow any and all directions of Company's Representative with respect to such discoveries. Contractor shall at Company's expense remediate such existing Hazardous Materials but only at the direction of Company to do so.

(b) **Conditions Caused by Contractor.** Contractor shall be liable for, and shall indemnify, defend and hold harmless Company and Company's employees, officers, and agents with respect to, any Hazardous Materials created, brought on, generated or disposed from the Site by Contractor, or any Subcontractor or disturbed by Contractor or any Subcontractor causing its release following Contractor's or any Subcontractor's knowledge of the existence of such Hazardous Materials. At its own expense, Contractor shall perform all necessary clean-up, removal and disposition with respect to any such Hazardous Materials, for which it is responsible, in compliance with all applicable Law.

27. **Compliance with DOT Anti-Drug and Alcohol Misuse Regulations.** Company under 49 CFR Parts 199 and 40, is required by law to ensure compliance with the pipeline safety regulations for drug and alcohol testing applicable to its contractors, subcontractors and their agents, performing operations, maintenance, or emergency response functions on a pipeline or LNG facility subject to Parts 191, 192, 193 and 195 of Title 49 of the Code of Federal Regulations as follows:

- (a) Contractor agrees that Contractor, its subcontractors, and their agents will abide by a DOT anti-drug plan and Alcohol Misuse Program which applies to all employees of contractors, subcontractors, and agents if performing an operations, maintenance or emergency response function.
- (b) Contractor agrees that Contractor, its subcontractors and their agents shall provide to their respective employees an Anti-drug Plan and Alcohol Misuse Program, the drug and alcohol testing, education, and training required by Title 49 Parts 199 and 40 of the Code of Federal Regulations.

- (c) Contractor agrees that all employees of contractor, its subcontractors, and their agents, are in compliance with the drug testing regulations at 49 CFR Parts 199 and 40 and the Motor Carrier Regulations at 49 CFR Parts 391 and 394, if applicable.
- (d) Contractor agrees that Contractor, its subcontractors, and their agents shall allow the Company, the administrator and/or representative of a state agency (as defined in 49 CFR Part 199) access to property and records for the purpose of monitoring compliance with the requirements of the Research and Special Programs Administration for drug and alcohol testing at 49 CFR Part 199. This access shall occur periodically, and without prior notice to allow Company, the administrator and/or representative of a state agency to audit contractor, its subcontractors, and their agents' Anti-drug Plan and alcohol, the required drug testing and results thereof.

28. **Company Policy Regarding Drugs/Alcohol/Weapons.** In addition to the provisions of Section 27, Contractor agrees to advise its employees and the employees of its subcontractors and agents that it is the policy of Company that:

- (a) The use, possession and/or distribution of illegal or unauthorized drugs, drug-related paraphernalia or weapons on Company's premises is prohibited and the use or possession of alcoholic beverages, except where authorized by Company's management, is also prohibited;
- (b) Entry onto or presence on Company's premises by any person, including Contractor, Contractor's employees, subcontractors, subcontractors' employees, contract personnel, temporary employees and visitors, constitutes consent to Company to conduct searches, whether announced or unannounced, on Company's premises of the person and his or her personal effects for such prohibited items, and consent to drug testing at any time while on Company's premises;
- (c) Any person who is found in violation of the policy or who refuses to permit a search or drug or alcohol test may be removed and barred from Company's premises, at the direction of Company; ; and
- (d) Contractor personnel who test positive for illegal drugs or unauthorized alcohol as a result of a test conducted on Company premises, or upon request of Company, will be removed from any further performance or services under this Agreement.

29. **Right of Ingress and Egress.** To the extent necessary, Company will furnish all rights-of-way and rights of ingress and egress necessary for the prosecution of the Work. Contractor shall not enter upon private property until all rights-of-way and rights of ingress and egress have been secured and verbal and/or written notification of such has been given to Contractor by the Company Representative. Contractor shall comply fully with any and all terms and conditions contained in such rights-of-way and rights of ingress and egress and shall fully indemnify Company, its parent and affiliated companies, in the same manner as set forth in Section 19 above, for any costs and expenses incurred by Company, its parent and affiliated companies, as a result of any non-compliance therewith by Contractor.

30. **Public Relations.** Contractor shall exert all reasonable efforts to maintain good will for the benefit of Company with the landowners, tenants, and lessees along the right-of-way, and with the general public.

Nothing contained herein shall permit or be deemed to permit use by Contractor of Company's name, directly or indirectly, in the form of advertising or in a press release without the prior receipt of Company's written approval.

31. **Protection of Materials, Equipment, and Work.** Contractor shall at all times, in accordance with the best practices and at no additional cost to Company, preserve and protect Contractor's material, Company's material, Contractor's construction equipment and Company's equipment used by Contractor in the execution of the Work from damage or loss due to weather, fire, theft, unexplained disappearance or other similar casualty.

Contractor shall at all times in accordance with the best practices and at no additional cost to Company, protect the Work from damage due to Contractor's operations, equipment and materials (whether stored or installed), paving, structures and any and all other items on jobsite belonging to Company, or others.

Company shall not be responsible for any loss suffered by Contractor, or damage to the Work, or to materials, tools and equipment of Contractor or of any other contractor, and Contractor assumes responsibility for any such loss or damage and for any cost of repairing, making good, or replacing any such loss or damage that may be directed by Company.

Contractor shall take necessary actions to preclude damage to all structures, equipment, and vegetation, (such as trees, shrubs, and grass) on or adjacent to the Site, which are not to be removed and which do not unreasonably interfere with the work required under this Agreement.

Contractor shall protect from damage all existing improvements and utilities (1) at or near the Site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by Contractor. Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from the failure to comply with the requirements of this Agreement or failure to exercise reasonable care in performing the Work. If Contractor fails or refuses to repair the damage promptly, Company may have the necessary work performed and charge the cost against Contractor's account.

32. **Independent Contractor.** The parties hereto agree that the Work rendered by Contractor in the fulfillment of the terms and obligations of this Agreement shall be as an independent contractor, and this Agreement does not create an employer/employee relationship between Company and Contractor. Contractor is not entitled to the benefits provided by Company or its parent, subsidiaries or affiliates to their employees, and Contractor is not an agent, partner, or joint venture of Company, its parent or any subsidiary or affiliate or limited partnerships in which Company, its parent and/or affiliated companies act as general partner. Contractor shall act at its own risk and expense in its fulfillment of the terms and obligations of this Agreement and agrees to employ and direct any persons performing any work hereunder. Contractor shall not represent itself to third persons to be other than an independent contractor of Company, nor shall Contractor offer to agree to incur or assume any obligations or commitments in the name of Company.
33. **Other Contractors.** Company reserves the right, at all times, to enter into other agreements in connection with the Work. At such times as Company may engage other contractors to work concurrently on the project, Contractor shall cooperate with and program and coordinate its Work with that of the others to the satisfaction of the Company's Representative, and so conduct its operations as to avoid interference with such other contractors' activity to the maximum extent possible in the best interests of the entire project; provided, however, that Company shall use its reasonable efforts to ensure that other contractors shall carry out their activity with a minimum of interference with Contractor's responsibilities, job sequence and schedule.
34. **Confidentiality.** It is understood that Contractor may have access, as determined by Company in its sole discretion, to confidential materials and information ("Confidential Information") of Company, its parent, subsidiaries, or affiliates in order to provide the Work hereunder. It is further understood that Contractor will utilize the Confidential Information received by it only for the purpose of providing the Work contemplated hereunder and for no other purposes whatsoever. In no event shall Contractor divulge any such Confidential Information to any third party without the express prior written consent of Company's Representative. Upon termination of this Agreement, Contractor agrees not to disclose or use any Confidential Information that it may have concerning the affairs of Company, except for information that is required by law to be disclosed; provided, however, that nothing in this Section 34 shall be construed to prohibit Contractor from operating its business in competition with Company. Contractor shall advise all recipients of Confidential Information as to the provisions of this Section and their commitment to be bound by its conditions, and it is agreed that the provisions of this Section shall survive the termination of this Agreement.
35. **Dispute Resolution.**
- (a) **Negotiation of Disputes and Disagreements.** In the event of any dispute or disagreement arising out of or relating to the implementation or performance of this Agreement, which dispute the parties hereto

have been unable to settle or agree upon within a period of ninety (90) days after the dispute or disagreement arises, each party shall nominate an officer to meet at an agreed time and place to resolve such dispute or disagreement. Should a resolution of such dispute or disagreement not be obtained within thirty (30) days after the meeting of senior officers for such purpose, either party may then pursue any and all legal or equitable relief it may have, subject to Section 36 of this Agreement. Notwithstanding any such dispute, Contractor shall continue to diligently prosecute the Work at all times.

(b) **WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PROJECT CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS CONTRACT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(c) **Continuation of Work.** Pending final resolution of any dispute, whether or not submitted to arbitration hereunder, Company and Contractor shall continue to fulfill their respective obligations hereunder.

36. **Governing Law.** Unless otherwise specified in a particular Work Offer, this Agreement and the rights and duties of the parties arising out of this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, except provisions of that law referring to governance or construction of the laws of another jurisdiction. Any action arising out of this Agreement or the rights and duties of the parties arising out of this Agreement may be brought, if at all, only in the courts of Texas. Venue shall be proper in Harris County.

37. **Controlling Provisions in Case of Conflict.** Should any conflict exist or seem to exist between any of the parts or Exhibits of the Agreement, the provisions of Part II, General Terms and Conditions, of this Agreement shall control and be decisive of the issue.

38. **Assignment and Subcontracting.** Contractor shall not assign this Agreement nor assign or hypothecate any payment or part of the payment which may accrue hereunder, nor subcontract the Work or any part thereof, without first having obtained written approval from Company. In the event Company grants such approval, Contractor shall nonetheless be obligated to Company to complete the Work in the time and manner herein agreed, all in accordance with the terms and conditions hereof. Any transfer or assignment in violation of this Section 38 shall be void.

Contractor shall further cause each subcontractor to assume and satisfy all obligations of Contractor hereunder to the full extent same may be applicable to the portions of the Work subcontracted. Contractor shall be liable for all acts and omissions of any assignee, subcontractor, or any of their employees or agents, as if performed or omitted by Contractor.

Any assignee or subcontractor shall be subject to the confidentiality obligations of this Agreement and it shall be a condition to the granting of any assignment or subcontract that such subcontractor shall execute a confidentiality agreement in form acceptable to Company.

39. **Proprietary Rights.** All materials which Contractor is required to furnish, prepare or develop in the performance and completion of Work hereunder (whether delivered to Company or not), including, but not limited to, reports, plans, drawings and specifications, calculations, maps, sketches, notes, data and samples, are the sole and exclusive property of Company without limitation (except Contractor may retain a copy thereof), subject to Contractor's right to use the same to perform the Work under this Agreement. Such materials (including all copies thereof) shall, together with any materials furnished by Company hereunder, be delivered to Company upon request and in any event upon completion or termination of this Agreement. All such

materials shall be considered to be confidential and Contractor may not disclose such materials or information provided to Contractor by Company to any third parties without Company's express consent.

40. **Contractual Rights.** The terms and provisions of this Agreement shall inure to the benefit of and be binding upon the successor, assigns and representatives of the parties hereto. Contractor agrees that the exercise of any and all rights or remedies at law or in equity against any parent, subsidiary or affiliate of Company by Contractor, its successors, assigns and representatives, arising out of or in connection with the Work or any obligation under this Agreement, is expressly waived. The provisions of this Agreement shall not impart rights enforceable by any person, firm or organization not a party or not bound as a party, or not a permitted successor or assignee of a party bound to this Agreement.
41. **General.** The terms and provisions of this Agreement are intended to supersede any conflicting terms or conditions in any other agreement between the parties. This Agreement contains the entire agreement between the parties and shall not be modified or supplemented except by written instrument duly executed by both parties. If any provision of this Agreement shall, for any reason, be held violative of any applicable law, and said provision of this Agreement is held to be unenforceable, then the invalidity of such a specific provision herein shall not be held to invalidate any other provisions herein, which other provisions shall remain in full force and effect unless removal of said invalid provision destroys the legitimate purposes of this Agreement, in which event this Agreement shall be canceled. The terms and provisions of Sections 5, 6, 10, 15, 19, 20, 21, 22, 34, 39, and 40 shall survive the termination of this Agreement. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (regardless of whether similar), nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided.

COMPANY EXPRESSLY DISCLAIMS WARRANTY AS TO ANY DOCUMENTATION PROVIDED BY COMPANY IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, DRAWINGS, PLANS AND SPECIFICATIONS.

42. **Supplier Diversity:** If Contractor qualifies as a minority-owned or woman-owned business enterprise ("M/WBE"), Contractor will furnish to Company a copy of its Supplier Diversity or Manufacturer Diversity program. If Contractor does not presently qualify as an M/WBE, Contractor will report to Company any change in its ownership or control which would qualify it as an M/WBE. Contractor will report to Company quarterly its sales to Company from qualified second-tier M/WBEs.
43. **Ethics.** Company and Contractor will maintain relationships based on mutual respect, honesty, and fairness. Company and Contractor agree that the acceptance or solicitation of gifts, entertainment, or other special favors to influence business decisions will not be permitted. Company and Contractor further agree that courtesies of nominal value, and social invitations reasonably deemed to be customary and proper under the circumstances, and not given or received in exchange for a special position, price or privilege, will be permitted, provided they imply no business obligation whatsoever, nor involve significant or out of the ordinary expense.
44. **Compliance with Company's Operator Qualification Program.** Company, under Research and Special Programs Administration (RSPA), Department of Transportation (DOT), 49 CFR 192, Subpart N and 195 Subpart G, is required by law to have an Operator Qualification Program that meets the requirements of DOT's Operator Qualification Rule and to ensure compliance with Company's Operator Qualification Program (OQP) by each individual who operates and maintains Company's pipeline facilities and performs any of the Covered Tasks described on Company's "Covered Tasks List". Contractor represents and warrants to Company that Contractor's personnel performing any of the Covered Tasks described on Company's "Covered Tasks List" shall be qualified at all times under Company's OQP to perform such Covered Tasks and to recognize and react to abnormal operating conditions. For the purposes of this Agreement the term "Contractor's personnel" shall mean all individuals who perform Covered Tasks regardless of whether they are employed by Contractor, Contractor's subcontractor, or any other entity performing a Covered Task on behalf of Contractor. The Company's "Covered Tasks List" can be reviewed or downloaded by accessing the Veriforce website at www.veriforce.com click on Pipeline Operators and choose "covered tasks list" from the dropdown menu.

45. **Reserved.**

46. **Approved Vendor Status and ISN Software Corporation (ISN) Compliance.** ISN serves as Company's primary contractor information management system provider through ISNetworld (www.isnetworld.com), ISN's online compliance recordkeeping system. ISN assists with tracking contractor information on behalf of Company in order for Contractor to achieve Approved Vendor status. Contractor agrees, at its sole cost and expense, to become a subscriber to ISNetworld by contacting an ISN representative at (214)303-4900 or by visiting www.isnetworld.com and shall submit all required data to ISN prior to the commencement of Work under this Agreement.

**PART IV
FIXED FEE PROPOSAL**

I. OVERVIEW OF PROPOSAL BASIS

This Fixed Fee Proposal ("Proposal") is the product of substantial collaboration and negotiation between Company and Contractor involving numerous detailed assessments of the Work and its requirements for timely completion. The Parties carefully examined the drawings, specifications, general and special conditions, sites and routes of the Work, and are thoroughly acquainted with all conditions likely to be encountered in timely completion of the Work. The Parties jointly created a Project Cost Estimate, attached hereto as Attachment K, taking into consideration all such aspects of the Work, the resources necessary for timely completion, and the consequential market conditions of the Parties. The Project Cost Estimate is intended to depict the total complete cost to Company for full and final timely completion of the Work and shall be used as the Agreement Price as set forth in Section 6 of Part I of the Agreement.

A variety of isolated cost reimbursement and compensation components are combined to achieve the Project Cost Estimate. As more particularly described in this Proposal, a Target Price Estimate, Fixed Fee, certain Lump Sum components, and Contractor's actual cost of "Special Units" are combined to achieve the Project Cost Estimate. The Agreement and this Proposal set forth the pricing structure of each component of the Project Cost Estimate and shall determine the manner, conditions, and extent in which Contractor shall be entitled to compensation under the Agreement. Where applicable, all compensable items under this Proposal shall be at Contractor's direct and actual cost, unless specified otherwise herein.

The eleven attachments to this Proposal are material to the Agreement ("Proposal Attachments"). The Proposal Attachments were jointly conceived by the Parties in generating the Project Cost Estimate and its individual components. Upon execution of the Agreement, there shall be no change, modification, alteration or amendment to the Proposal Attachments without the express written consent of the Parties. The eleven attachments include the following:

- Attachment A: List of Consumables
- Attachment B: Unit Items (B1) and Special Unit Items (B2)
- Attachment C: Contractor Rental Rates for Specialty Equipment
- Attachment D: Invoicing and Approval Flow Diagram
- Attachment E: Actual Cost Component
- Attachment F: Reserved
- Attachment G: Labor Rates for Union Labor (G1) and Contractor Employee Labor (G2)
- Attachment H: Contractor Equipment Rate Sheet for Extra Work
- Attachment I: Contractor Crew Configuration List
- Attachment J: Target Price Estimate
- Attachment K: Project Cost Estimate

Contractor shall at all times strictly comply with the terms and conditions of the Agreement. In the event of a conflict between the terms and conditions of the Agreement and this Proposal, the terms and conditions of this Proposal shall control and be decisive of the issue.

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II. CONTRACTOR PROGRESSION RATE

Contractor proposed a daily average "progression rate" on each spread of the Work, taking into consideration all elements of the Work including the required Completion Dates and risk allocated to Contractor under the Agreement. "Progression Rate" and "Weld Days" are defined in the Agreement. Progression Rate is defined as that daily average of linear mainline pipe welded by Contractor during the term of this Agreement, calculated by dividing the total aggregate number of linear feet welded by the total aggregate number of Weld Days. Weld Days are defined as the total aggregate number of days in which Contractor is working between the 20th working day after Contractor commences construction Work and the last day in which Contractor fully and finally completes mainline welding Work. The Weld Days calculation shall be calculated by assuming a 6 day work week, notwithstanding the actual number of calendar work days incurred or executed by Contractor.

Although the Agreement requires Contractor to achieve the Progression Rate over the duration of its Work, Company retains the right all times to use the Progression Rate as indirect evidence that Contractor is failing to perform, negligent on schedule, or otherwise in breach of the Agreement, excluding where a delay has been caused by a Force Majeure event as defined in the Agreement or as a result of inclement weather exceeding the quantity of days depicted in the Weather Day Allocation in Section 8.1.

Contractor's daily production mean and median shall have no effect or consideration under the Agreement or this Proposal.

This Proposal, the Project Cost Estimate (Attachment K), the Target Price Estimate (Attachment J), and timely completion of the Work are based on Contractor's achievement of the Progression Rate. In accordance with Section 3 of Part I of the Agreement, the Progression Rate is a material term to the Agreement and shall be achieved by Contractor, with time being of the essence at all times.

Contractor shall achieve the following spread Progression Rate, with time being of the essence at all times:

Spread 1:	2,252 feet per day;
Clarrington Lateral:	1,850 feet per day; and
Cadiz Lateral:	1,537 feet per day.

III. TARGET PRICE ESTIMATE & RELATED COMPONENTS

1. Target Price. The Target Price per spread shall be defined as the Contractor's total estimated aggregate cost to Company of the components set forth in Sections 2 through 8 for the relevant spread. Contractor's Target Price Estimate is attached hereto as Attachment J. The Target Price excludes Contractor's profit and items stipulated by the parties as "Lump Sum Components" in Article VI, the "Negotiated Special Terms" set forth in Article VIII and the "Actual Cost" component of Special Units as set forth in Article IX. Contractor's profit shall be a Fixed Fee calculated as a percentage of the Target Price per spread, as set forth in Article IV.

The remainder of this Article III sets forth the estimates that are included in the Target Price.

2. Contractor Labor. Contractor labor categories and associated rates are attached hereto as Attachments G1 (Union Labor Rates) and G2 (Contractor Employee Labor Rates). Contractor's

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compensation for labor hours expended in performance of the Work, regardless of kind or classification, shall be at its actual and direct cost, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV. Labor hours expended in performance of the Work and the associated actual cost shall not increase, without the prior written approval of Company. Contractor's compensation for Union labor expended in the performance of the Work shall be in accordance with the as-published Union labor rates by craft as of the Effective Date of the Agreement (attached hereto as Attachment G1) for the applicable Union Halls traversed by the Work and its corresponding location. Contractor's compensation for Contractor employee labor expended in the performance of the Work shall be in accordance with Attachment G2. Under no circumstances shall the rates related to Union Labor or Contractor employees increase or be modified without the prior written approval of Company.

2.1 Components of Contractor Labor. Contractor's actual and direct cost for labor hours expended in performance of the Work, regardless of kind or classification, explicitly includes any and all labor related fee or expense including the following:

- (i) Wages;
- (ii) Union Benefits;
- (iii) FICA;
- (iv) FUTA;
- (v) SUTA;
- (vi) Worker's Compensation;
- (vii) General liability and related insurance required under Exhibit E of the Agreement;
- (viii) Per Diem;
- (ix) Local Overhead, including operations management, project management, estimating, payroll processing, accounts payable processing, and union reporting; and
- (x) Any other labor related expense (regardless of kind or classification) known or unknown expended in Contractor's performance of the Work under the Agreement and not contemplated otherwise in the remaining provisions of this Proposal.

2.2 Health and Welfare Benefits. Contractor's cost and expense related to health and welfare benefits related to labor expended in performance of the Work are included in the Target Price Estimate and compensable to Contractor at direct and actual cost. The components of health and welfare benefits include the following:

- (i) Benefits provided under union or employer sponsored plans that provide covered employee benefits such as health care insurance coverage (i.e., health, pharmaceutical, dental, eye care), pension or retirement funding, employee assistance plans, employer contributions to Section 125 Flex Benefit Plans related to the labor required to perform the Work;
- (ii) Subsistence payments as agreed by Contractor and the unions or employees as applicable; and
- (iii) Travel payments as provided in the applicable United Association agreement(s). The benefits provided shall be adequately detailed in the supporting documentation as required under this Proposal.

2.3 Insurance and Payroll Taxes. Contractor's cost for insurance and payroll taxes related to labor expended in performance of the Work shall be compensable at the rate of 23.21% of Contractor Labor and is included in the Target Price Estimate attached hereto as Attachment J. Payroll Taxes related to labor expended in performance of the Work include required statutory payroll taxes and related statutory insurance requirements. Insurance includes maintenance of the required coverage under the Union contracts.

2.4 Original Scope Increase in Contractor Labor Hours. In the event: (i) the actual kind, classification, or quantity of Contractor labor hours expended in performance of the Work increases beyond that set forth in the Target Price Estimate; and (ii) such increase is not due to the default, failure to perform, breach, or fault of Contractor, Contractor shall be compensated its direct and actual cost related to such increase, in accordance with the requirements of this Proposal and the terms and Conditions of the Agreement. Company shall pay Contractor a profit on any such increase at the appropriate Fixed Fee for the relevant spread as set forth in Article IV.

2.5 Labor Hours Related to Extra Work. Labor hours expended by Contractor during the performance of Extra Work in accordance with the terms and conditions of the Agreement shall be compensated at actual and direct cost, in accordance with the requirements of this Proposal and the terms and conditions of the Agreement. Company shall pay contractor a profit at the appropriate Fixed Fee for the relevant spread as set forth in Article IV.

2.6 Crew Configuration/List: Contractor's table of crew categories and associated rates is attached hereto as Attachment I. Any modification to the crew configurations must be approved by Company prior to amending the crew configuration with increases or decreases in labor. All crews must be accounted for daily by Contractor and documented by crew, position, numbers of persons and work hours in accordance with Contractor's duty to document cost and expense under Section 14. As evidence of this daily accounting and as a condition precedent to Company's obligation to compensate Contractor, Contractor shall provide Company detailed daily crew configuration summary logs in form and fashion to the reasonable satisfaction of Company.

3. Unit Items. A list of compensable Unit Items is set forth in Attachment B1. Subject to the limitations set forth in this Article, Contractor shall be compensated its actual and direct unit cost for Unit Items actually utilized or incorporated into the Work, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV. When applicable, Unit Items shall be invoiced by Contractor during the next and most immediate invoicing period following utilization or incorporation of the unit item into the Work.

3.1 Unit Surplus Tolerance and Requirements. In an effort to avoid underage and delay to the Work, Contractor may invoice Company for up to an additional 5% of the Unit Items estimated under the Target Price Estimate (Attachment J). Upon Final Completion of the Work, if surplus Unit Items remain and are: (i) retained by Contractor; (ii) unaccounted for, unknown, or cannot be located; or (iii) are not properly returned in accordance with the instructions provided by Company, Company may set-off from Contractor's retainage or final payment a reasonable reimbursement sum for the cost of the relevant unit price item.

3.2 Increase in Units under Original Scope. Under this Proposal, in the event the quantity and cost of Unit Items exceeds that estimated in the Target Price Estimate (Exhibit J),

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Contractor shall be solely responsible for the initial \$600,000 in actual and direct cost and expense related to the increase in Unit Items. Thereafter, Contractor shall be compensated its actual and direct unit cost for Unit Items, without profit of any kind or the relevant spread Fixed Fee referenced in Article IV, subject to and on condition that: (ii) such increase is not due to the fault, failure to perform, or breach of Contractor; and (iii) Contractor has incurred \$600,000 in cost and expense related to the initial provision of additional Unit Items beyond that contemplated in the Target Price Estimate (Attachment J).

3.3 Unit Items and Extra Work. Unit Items actually utilized during the performance of Extra Work in accordance with the terms and conditions of the Agreement shall be compensated at actual and direct per unit cost, in accordance with the requirements of this Proposal and the terms and Conditions of the Agreement, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV.

3.4 Major Material. Major Material shall be material: (i) that is not explicitly contemplated in Attachments B1 and B2; (ii) that is not Company Provided Material as set forth in Exhibit C to the Agreement; and (iii) has an actual and direct cost of \$10,000 or more. Contractor shall obtain Company's prior written approval for the purchase of Major Material as a condition to payment by Company. Upon such approval, Contractor shall be compensated its actual and direct unit cost for such Major Material, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV.

3.5 Reconciliation of Units. In addition to Company's right of audit under the Agreement, Company or its designated representative shall and explicitly retains the right to perform a reconciliation of all Unit Items utilized or incorporated throughout or at completion of the Work, including the performance of Extra Work. In the event Company's reconciliation or audit reveals overpayments or underpayments to Contractor, Company shall either: (i) at its sole discretion, deduct from Contractor's final invoice or retainage the amount of such over payment; or (ii) compensate Contractor, on its final invoice, the balance of any underpayment. In the event of any underage, Contractor shall list the underage and associated dollar value as a separate line item on its final invoice.

4. Reserved.

4.1 Reserved.

4.2 Reserved.

4.3 Reserved.

4.4 Reserved.

5. Specialty Rental Equipment. Contractor's list of Specialty Rental Equipment and corresponding compensation rates are attached hereto as Attachment C. The rates set forth in Attachment C represent Contractor's direct and actual rental cost for the equipment specified. In the event Contractor obtains Company's prior written approval, Company shall compensate Contractor for its use of specialty rental equipment at the rate specified in Exhibit C, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV. Notwithstanding the Specialty Rental Equipment cost estimate included in the Target Price

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Estimate, Company shall have no obligation to compensate Contractor for its actual use of Specialty Equipment unless Contractor obtains Company's prior written approval.

5.1 Increase in Specialty Rental Equipment under Original Scope. In the event: (i) the cost of Contractor's use of Specialty Rental Equipment during performance of the Work increases beyond that set forth or contemplated in the Target Price Estimate (Attachment J); (ii) Contractor has obtained Company's prior written approval(s) for such use; and (iii) such increase is not due to the fault, failure to perform, or breach of Contractor, Contractor shall be compensated its actual and direct per unit cost as set forth in Attachment C, without profit of any kind or the relevant spread Fixed Fee referenced in Article IV.

5.2 Specialty Rental Equipment and Extra Work. Subject to Company's prior written approval for Contractor's use of Specialty Rental Equipment, Contractor shall be compensated at the rates set forth in Attachment C for its use of such equipment during the performance of Extra Work in accordance with the terms of the Agreement, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV.

5.3 Tracking of Specialty Rental Equipment. Company's obligation to compensate Contractor for its use of Specialty Rental Equipment under this Section is expressly conditioned on Contractor depicting in its daily time sheets, approved by a representative of Company, the following information: (i) the type and classification of such equipment; (ii) a description of the manner in which the equipment was utilized; (iii) the serial number of the equipment used.

5.4 Repair and Replacement of Specialty Rental Equipment. The cost or expense of damage, repair, loss, replacement, maintenance, or other expense related to Specialty Rental Equipment shall be borne solely and exclusively by Contractor and is not compensable by Company under this Proposal.

6. Fuel. Company shall compensate Contractor its actual and direct cost related to the purchase, consumption, and use of any and all fuel necessary for performance of the Work, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV. Contractor's total estimated fuel cost is set forth in the Target Price Estimate attached hereto as Attachment J.

6.1 Increase in Fuel under the Original Scope. In the event of the quantity of fuel consumed or utilized by Contractor during performance of the Work increases beyond that set forth or contemplated in the Target Price Estimate (Attachment J) and such increase is not due to the fault, failure to perform, or breach of Contractor, Contractor shall be compensated its actual and direct cost related to the fuel quantity actually used or consumed by Contractor without profit of any kind or the relevant spread Fixed Fee referenced in Article IV.

6.2 Fuel and Extra Work. Fuel of any kind utilized or consumed during the performance of Extra Work in accordance with the terms and conditions of the Agreement shall be compensated at actual and direct cost for the quantity utilized, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV.

7. Subcontractor Cost and Expense. For the purposes of this Section, "Subcontractor" or "Subcontractors" shall be defined as any individual or entity retained by or in privity with Contractor where such Subcontractor is providing goods or services to the Contractor related to the Work.

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Company shall compensate Contractor its actual and direct cost related to the services performed or goods provided to Contractor by its Subcontractors, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV. Contractor's total estimated Subcontractor cost is set forth in the Target Price Estimate attached hereto as Attachment J.

7.1 Increase in Subcontractor Cost under Original Scope. In the event Contractor's cost related to goods or services provided by Subcontractors during performance of the Work increases beyond that set forth or contemplated in the Target Price Estimate (Attachment J) and such increase is not due to the fault, failure to perform, breach or fault of Contractor, Contractor shall be compensated its actual and direct Subcontractor cost, without profit of any kind or the relevant spread Fixed Fee referenced in Article IV.

7.2 Subcontractor Cost and Extra Work. Contractor shall be compensated its direct and actual cost for Subcontractors utilized during the performance of Extra Work in accordance with the terms of the Agreement, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV.

7.3 Relisted Subcontractors Prohibited. Contractor represents it familiar with Company's "Red Listed" contractors and Subcontractors which are prohibited from providing goods or services directly, indirectly, or in any way related to the Work, including Western Supplies, Inc. Company shall have no obligation to compensate Contractor for services performed or goods provided by Subcontractors that are currently depicted on Company's Red List. In the event an audit or reconciliation reveals that services have been performed or goods have been provided to Contractor by a Red Listed Contractor, Company may set off any future amounts owed to Contractor or withhold from Contractor's retainage the sum paid to the Red Listed Contractor by Contractor.

8. Weather Day Allocation. This Proposal, the Project Cost Estimate, the Target Price Estimate, and the Production Rate reasonably accommodates the parties financial and schedule exposure related to weather caused interruptions in the Work or Extra Work through the inclusion of the "Weather Day Allocation" below. In the event Contractor's performance of Work is delayed due to weather related circumstances, Company shall compensate Contractor its direct and actual labor cost by crew, as evidenced by the Crew Configuration (Attachment I) on the day of delay, with profit to Contractor at the appropriate Fixed Fee for the relevant spread as set forth in Article IV.

8.1. Estimated Weather Allocation by Spread. This Proposal, the Production Rate, and the Target Price Estimate (Attachment J) include the following Weather Day Allocation per spread:

- | | | |
|-------------------------|---|---------------------------------------|
| (a) Spread 1: | 6 | aggregate weather days estimated; |
| (b) Clarington Lateral: | 4 | aggregate weather days estimated; and |
| (c) Cadiz Lateral: | 1 | aggregate weather day estimated |

8.2 Weather Days Exceeded. In the event Work or Extra Work is delayed or interrupted beyond the quantity of aggregate days contemplated in the Weather Day Allocation, Company shall Compensate Contractor its actual and direct labor cost by crew, as evidenced by the crew build-up configuration on the day of delay, without profit of any kind or the relevant spread Fixed Fee referenced in Article IV.

8.3 Unused Weather Days. If the Weather Day Allocation is not exhausted upon completion of the Work and surplus weather days remain, Company shall reduce

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Contractor's final invoice or withhold from Contractor's retainage that monetary sum that is equal to 80 % of the remaining daily Weather Day Allocation cost under the Target Price Estimate for each day not utilized.

8.4 Scope of Compensation for Weather. Direct and actual costs related to labor and the associated profit to Contractor shall be the sole and exclusive compensation due Contractor for weather related delays or impacts, in accordance with the requirements and limitations set forth in this Proposal and the terms and conditions of the Agreement. Company shall have no obligation of any kind to compensate or reimburse Contractor for any other cost or expense caused by weather delays or Work impacts, including, without limitation, overhead, equipment, or consumables. The compensation set forth in this Section shall be Company's sole and exclusive liability to Contractor for weather related impacts.

8.5 Prohibition Against Schedule Extensions. Contractor shall not be entitled to extensions of any kind in its Work schedule as a result of weather delays. The compensation set forth in this Section shall be Contractor's sole and exclusive remedy for impacts caused by weather.

IV. FIXED FEE COMPENSATION

9. Fixed Fee. Company shall compensate Contractor a Fixed Fee as profit for timely completion of the Work in accordance with this Article, subject to and in accordance with the terms and conditions of the Agreement and this Proposal. The Fixed Fee shall be calculated as a percentage of the Target Price components for the relevant spread, as set forth in this Article.

9.1. Fixed Fee Spreads. Contractor's Fixed Fee for performance of Work shall be 11% of the Target Price component for each spread.

9.1.1 Fixed Fee on Increases under Original Scope. In the event the actual total aggregate Target Price exceeds the total aggregate Target Price Estimate (Attachment J), Contractor's Fixed Fee for performance of Work shall be 6.9% related to the increase beyond the Target Price Estimate.

9.1.2 Fixed Fee on Extra Work. Contractor's Fixed Fee for performance of Extra Work in accordance with the terms and conditions of the Agreement and this Proposal shall be 11% of the Target Price Component associated to the Extra Work performed.

9.2 Fixed Fee on Remaining Spreads. Reserved – Not Applicable.

9.3 Conditions and Payment Procedure. The Fixed Fee shall be paid to Contractor in accordance with Section 16 of Part II of the Agreement and Exhibit K. The Fixed Fee shall be calculated and payable monthly by multiplying the value of the compensable Target Price components invoiced during the relevant pay period by the applicable spread Fixed Fee percentage referenced in this Section.

V. TARGET PRICE INCENTIVE

10. Target Price Incentive. The Parties shall share in the risk of exceeding the Target Price Estimate (Attachment J), in accordance with the requirements of this Section. Contractor shall

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similarly be compensated a Target Price Incentive for timely completing the Work for a total aggregate sum that is less than the Target Price Estimate (Attachment J).

10.1 Actual Cost Less Than Target Price. In the event: (i) the actual costs incurred by Company related to the total aggregate Target Price to achieve Final Completion are less than the estimated total aggregate Target Price; and (ii) Contractor timely completes the Work in accordance with the requirements of the Agreement, Company shall compensate Contractor as a Target Price Incentive that sum equal to 20% of the difference between the actual Target Price cost and estimated Target Price cost.

10.2 Actual Cost Exceeds Target Price. In the event the actual costs incurred by Company related to the total aggregate Target Price to achieve Final Completion exceed the estimated total aggregate Target Price, Company shall compensate Contractor a sum equal to 80% of the direct and actual Target Price cost items related to the amount of the overage.

10.3 Excluded Proposal Components from Target Price. As outlined in Articles I and II of the Proposal, the Target Price Estimate does not include: (i) Contractors Fixed Fee profit referenced in Article IV; (ii) the Lump Sum Components referenced in Article VI; (iii) Extra Work; (iv) the Negotiated Special Terms referenced in Article VIII; or (v) the Actual Cost Components referenced in Article IX and therefore shall not be considered in calculating the estimated Target Price, actual Target Price, or the Target Price Incentive.

VI. LUMP SUM COMPONENTS

11. Lump Sum Components Included in Proposal. The Parties agree that the components set forth or as described in this Article shall be compensable to Contractor as individual Lump Sum values, in accordance with the requirements of this Proposal and the terms and Conditions of the Agreement. The Parties further agree that the components set forth in this Article shall be included in the Project Cost Estimate (Attachment K) but excluded from the Target Price (Attachment J). As set forth below, Contractor's Lump Sum compensation for each individual Lump Sum component referenced in this Article is an absolute cap on the monetary compensation Contractor shall receive for each component specified.

11.1 Consumables. A list of Consumables is attached hereto as Attachment A. "Consumables" shall also include any other items that may not be explicitly listed in Attachment A, but are necessarily "consumed" or utilized by Contractor in performing its Work. Subject to the limitations set forth in this Section, Company shall pay Contractor, as total consideration for Consumables, the Lump Sum value depicted in the Project Cost Estimate (Attachment K). Contractor shall invoice Company a sum equal to 50% of Contractor's actual and direct Labor cost during each invoice period for Consumables until the Lump Sum value for Consumables depicted in the Project Cost Estimate (Attachment K) is exhausted.

11.1.1 Lump Sum Cap on Consumables. Contractor shall not be entitled to additional compensation of any kind for Consumables utilized: (i) on Work performed by Contractor after the In-Service Date; (ii) on Extra Work performed by Contractor under the Agreement; or (iii) regardless of the actual cost and quantity of the Consumables incurred, utilized, consumed or expended during Contractor's performance of the Work or Extra Work. Contractor acknowledges

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and agrees that the only compensation it shall receive for Consumables is that specified in Section 11.1.

11.2 Equipment. Company shall compensate Contractor, as total consideration for Equipment utilized or in any way associated to the Work, the Lump Sum value depicted in the Project Cost Estimate (Attachment K). Contractor shall invoice Company for Equipment depicting a sum certain on each invoice determined by multiplying the Lump Sum value for Equipment set forth in the Project Cost Estimate (Attachment K) by the percentage of completeness Contractor has achieved during the relevant invoice period until the Lump Sum value for Equipment depicted in the Project Cost Estimate (Attachment K) is exhausted. Contractor's Lump Sum compensation for Equipment under this Section includes any and all compensation for Equipment, excluding Specialty Equipment referenced in Section 5, whether owned, rented, borrowed, leased, or financed.

11.2.1 Maintenance and Repairs. The cost and expense for maintenance, consumables, repairs, damages, parts or any other expense related to the rental, ownership, or operation of equipment shall be the sole and exclusive responsibility of Contractor.

11.2.2 Equipment and Extra Work. Contractor's Equipment List and Rate Sheet is attached hereto as Attachment H. The equipment rates set forth in Attachment H depict Contractor's cost, including profit, of the equipment unit specified. Contractor shall be compensated at the rate specified in Attachment H for the equipment actually utilized during its performance of Extra Work, subject to the requirements of this Proposal and the terms and conditions of the Agreement.

11.2.3 Late Performance by Contractor. In the event of late performance by Contractor, in the reasonable opinion of Company, Contractor shall not be entitled to compensation of any kind beyond that set forth in Section 11.2, including, without limitation, increase or additional cost related to accelerated construction, mobilization of additional equipment to recover schedule, or other increases in equipment related cost caused by Contractor's late performance. The limitations set forth in this Sub-Section 11.2.3 shall not apply to Extra Work performed after the Completion Dates set forth in the Agreement.

11.3 Overhead. Company shall compensate Contractor as total consideration for Overhead the Lump Sum value depicted in the Project Cost Estimate (Attachment K). Contractor shall invoice Company for Overhead depicting a sum certain on each invoice determined by multiplying the Lump Sum value for Overhead set forth in the Project Cost Estimate (Attachment K) by the percentage of completeness Contractor has achieved during the relevant invoice period until the Lump Sum value for Overhead depicted in the Project Cost Estimate (Attachment K) is exhausted. Contractor's compensation under this Section is intended to compensate Contractor for any and all direct or indirect expenses required for sustenance of the Work, including; including, without limitation, general and administrative expenses; home office administrative and support staff, payroll, human resource, information technology, legal expenses, accounting personnel; corporate safety management; corporate environmental management; corporate equipment management; DOT operator compliance, executive and/or project management direction and management of the Work, and any and all associated travel and out-of-pocket cost.

11.3.1 Overhead and Extra Work. Contractor shall be compensated a Lump Sum

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value equal to 4% of the total aggregate value of the Extra Work, for corporate overhead incurred during its performance of Extra Work, subject to the requirements of the Proposal and terms and conditions of the Agreement.

11.3.2 Late Performance by Contractor. In the event of late performance by Contractor, in the reasonable opinion of Company, Contractor shall not be entitled to compensation of any kind for overhead beyond that set forth in Section 11.3, including, without limitation, increase or additional cost related to the performance of accelerated construction, accelerated overhead, mobilization of additional personnel to recover schedule, or other increases in overhead cost caused by Contractor's late performance. The limitations set forth in this Sub-Section 11.2.3 shall not apply to Extra Work performed after the Completion Dates set forth in the Agreement.

VII. EXTRA WORK

12. Extra Work. Extra Work is defined in Section 11 of Part II of the Agreement. Contractor's compliance with the terms and the conditions of the Agreement is a condition precedent to Company's obligation to compensate Contractor for the performance of Extra Work.

12.1 Effect on Target Price. For the purposes of calculating the Target Price Incentive set forth in Article V, all amounts paid by Company for performance of Extra Work shall not be added to and shall not increase the actual Target Price cost nor shall such costs increase the Target Price depicted in the Target Price Estimate (Attachment J).

VIII. NEGOTIATED SPECIAL TERMS

13. Negotiated Special Terms. This Article sets forth certain solitary and isolated agreements reached by the Parties during a collaborate evaluation of the Work. Where applicable, certain Sections of this Article VIII contemplate a monetary payment to Contractor and is included in the Project Cost Estimate (Attachment K) but not included in the Target Price (Attachment J). No item referenced in this Article shall be used in calculating the Target Incentive Bonus referenced in Article V.

13.1 Mobilization and Demobilization Fee. Company shall pay Contractor a spread Mobilization and Demobilization Fee in accordance with Section 13.1.1 and 13.1.2 below.

13.1.1 Spread 1. Company shall pay Contractor a Mobilization and Demobilization Fee of \$2,000,000 for Spread 1 as compensation for the preparation, transportation, delivery and related logistics of its equipment, personnel, and material to the Contractor's designated field locations. Company shall compensate Contractor \$1,500,000 of the spread Mobilization and Demobilization Fee simultaneously with Company's early notice to Contractor to proceed on Spread 1 with the tree felling, preliminary road bore, or horizontal directional drill Work under the Agreement. The remaining \$500,000 of the spread Mobilization and Demobilization Fee shall be paid as part of Contractor's final invoice under the Agreement.

13.1.2 Clarington Lateral. Company shall pay Contractor a Mobilization and Demobilization Fee of \$2,000,000 for the Clarington Lateral as compensation for the preparation, transportation, delivery and related logistics of its equipment, personnel, and material to the Contractor's designated field locations. Company

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13.1.3 Cadiz Lateral. Company shall pay Contractor a Mobilization and Demobilization Fee of \$200,000 for the Cadiz Lateral as compensation for the preparation, transportation, delivery and related logistics of its equipment, personnel, and material to the Contractor's designated field locations. Company shall compensate Contractor \$150,000 of the spread Mobilization and Demobilization Fee simultaneously with Company's early notice to Contractor to proceed on the Cadiz Lateral with the tree felling, preliminary road bore, or horizontal directional drill Work under the Agreement. The remaining \$50,000 of the spread Mobilization and Demobilization Fee shall be paid as part of Contractor's final invoice under the Agreement.

13.2.1 Contractor Refund of Prefunding Payment: Reserved. Not Applicable.

13.3 Letter of Credit: Reserved. Not Applicable.

13.4.1 Spread Quantities Provided by Company. Company shall provide the following quantities of 8" x 4' x 18' mats per spread:

- | | |
|---------------------------|-------|
| (a) Spread 1: | 5,000 |
| (b) Clarington Lateral: : | 5,000 |
| (c) Cadiz Lateral: | 200 |

14.1 Daily Tickets. Daily Tickets shall be approved by Company Representative and Contractor Representative as defined below:

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Date:

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Weekly: 1 - Spread Chief
2 - Assistant Construction Manager
3 - Field Cost Control Analyst

Bi-Weekly: 1 - Construction Manager
2 - Project Manager
3 - Cost Control Representative
4 - Project Director

Contractor: Daily: 1 - Foreman
2 - Project Engineer/Office Manager

Weekly: 1 - Field Cost Analyst
2 - Project Engineer
3 - Superintendent

Bi-Weekly: 1 - Project Manager

15. Review and Audit of Contractor Invoicing. The invoicing and payment process under this Proposal shall be in accordance with Section 16 of Part II of the Agreement and the Authorization for Invoicing (AFI) attached to the Agreement as Exhibit K. All invoices submitted by Contractor under the Agreement will be reviewed, approved and audited in accordance with the Invoicing and Approval Flow Diagram attached hereto as Attachment D.

As described in the Approval Flow Diagram attached hereto as Attachment D, the AFI along with all supporting documentation shall be reviewed and preliminary approved in the field by Company Representatives. Supporting documentation required with each Contractor invoice for the relevant invoice period shall include, at a minimum and at the discretion of Company, certified payroll, Contractor's aging report, time sheets, material and equipment tickets, and Contractor's schedule. Following preliminary approval in the field, the project manager of Company shall conduct a second review for completeness and compliance with the terms of the Agreement and this Proposal.

Following these approvals, the AFI shall be signed by both Parties and sent to Contractor. The Contractor shall generate an invoice based on the signed AFI and submit, with all supporting documentation, to the appropriate Company Representative for review, coding, and payment.

Company shall employ an audit team to conduct validation reviews of all invoices. Any discrepancies, errors, overbillings, under billings or other errors discovered in invoicing will be tracked and logged by Company in a Discrepancy Reconciliation, which shall be reviewed monthly by Company and Contractor and with any errors credit or debited to future amounts due and owing Contractor.

IX. ACTUAL COST COMPONENTS

The components referenced in this Article are compensable to Contractor at its actual and direct unit cost for items actually utilized, performed, or incorporated into the Work plus a Lump Sum Fee equal to 7.5% of the actual and direct cost of the items incurred or expended during the relevant invoicing period for profit, overhead, and consumables. When applicable, the following Actual

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Cost Components shall be invoiced by Contractor during the next and most immediate invoicing period following utilization, performance, or incorporation of the component into the Work.

An estimate for the components referenced in this Article shall not be included in the Target Price Estimate and shall therefore be excluded from the Target Price Incentive referenced in Article V. Contractor's Fixed Fee as set forth in Article IV shall not apply to the components in this Article. Additionally, where Contractor's invoice includes the provision, execution, or implementation of the components referenced in this Article, Contractor's Lump Sum compensation for Consumables and Overhead referenced in Article VI shall not be calculated against the amount(s) incurred related to the Components under this Article, it being the intent of the Parties that Contractor's 7.5% Lump Sum Fee under this Article shall be in lieu of all other compensation under this Proposal.

16. Special Unit Items. Contractor's estimate for Special Unit Items is attached hereto as Attachment E. Special Unit Items are set forth in Attachment B2 and include Contractor's provision of sheet piling, well point systems, or sock drain tile. Additionally, subject to and conditioned on Contractor complying with the requirements of Section 13.4, Contractor provided mats shall be considered a Special Unit Item. Company shall compensate Contractor its actual and direct cost incurred for the performance or provision of the Special Unit Item plus a Lump Sum Fee equal to 7.5% of the actual and direct cost of the Special Unit Items incurred or expended during the relevant invoicing period for profit, equipment, overhead, and consumables.

16.1 Increase in Special Units under Original Scope. In the event the actual quantity of Special Unit Items performed, utilized, or incorporated into the Work increases beyond that set forth or contemplated in Contractor's original estimate and such increase is not due to the fault, failure to perform, or breach of Contractor, then Contractor shall be compensated its actual and direct per unit cost, without compensation for the 7.5% Lump Sum Fee, profit of any kind or the relevant spread Fixed Fee referenced in Article IV.

16.2 Special Unit Items and Extra Work. Special Unit Items actually performed or utilized during the performance of Extra Work in accordance with the terms and conditions of the Agreement shall be compensated at actual and direct unit cost, in accordance with the requirements of this Proposal and terms and conditions of the Agreement, with payment of the 7.5% Lump Sum Fee for profit, overhead, and consumables.

16.3 Limitation on Units. No other additional Unit Items or Special Unit items of any kind other than those outlined in this Section and referenced in Attachment B shall be compensable under the Agreement, unless agreed otherwise by Company in writing.

16.4 Reconciliation of Special Units. In addition to Company's right of audit under the Agreement, Company or its designated representative shall and explicitly retains the right to perform a reconciliation of all Special Unit Items utilized or incorporated throughout or at completion of the Work, including the performance of Extra Work. In the event Company's reconciliation or audit reveals overpayments or underpayments to Contractor, Company shall either: (i) at its sole discretion, deduct from Contractor's final invoice or retainage the amount of such over payment; or (ii) compensate Contractor, on its final invoice, the balance of any underpayment. In the event of any underage, Contractor shall list the underage and associated dollar value as a separate line item on its final invoice.

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Attachment A

Consumables

- Adhesives
- Batteries
- Bottled Gases
- Coating Brushes & Rollers
- Communications
- Coupon Cutters/ Strap Pullers
- Digging Teeth
- Drinking Water and Containers
- Duct/Masking Tape
- Employee PPE
- Environmental Spill Kits
- Fasteners
- Files, Knives & Cutters
- Flashlights
- Grinding Discs & Power Brushes
- Hand Brushes
- Hand Tools
- High/Low Pressure Hoses
- Hooks, Blocks & Clevises
- Ice
- Lubricants
- Markers & Stakes
- Measuring Tapes
- Night Caps & Foreman Plugs
- Office supplies and copiers/printers
- Paint
- Portable Toilets
- Pry Bars & Probe Rods
- Rags & Towels
- Road and Traffic Signs
- Spray Paint & Paint Sticks
- Sledge Hammers / T-Post Drivers
- Timber Skids
- Tires
- Torch Kits and Hoses & Gauges
- Utilities
- Welding Rods and Electrodes
- Wire Rope & Slings

Additional items may be added as Consumables with Company approval.

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Date:

1/25/17

Attachment B1

Unit Items

- Hay, Straw Bales & Erosion Logs
- Sand Bags
- Sakrete Bags
- Erosion Control Materials
- Hydro-Seeding/Mulching
- Gravel, Crushed Limestone, and Crushed Rock
- Pipe Coating, Primers & Painting Materials
- Soil Conditioners (Lime, Fertilizers, etc...)
- Seed
- Mulch &/or Binders
- Buried Warning Tape
- Concrete
- Flowable Fill for Backfill (sand cement or Fly Ash concrete)
- Poly-Foam Material
- Rock for Stabilization (Rip-Rap)
- Rock Shield
- Reinforcing steel
- Structural Steel
- Sack Weight Bags for buoyancy control
- Asphalt & Road Base Materials
- Filter bags (Dewater)
- Silt Fence
- CP Test Station Materials
- Anode
- Zinc Ribbon & Hardware
- Marker Posts & Aerial Markers
- Testing Materials – Materials necessary to build testing manifolds
- Fencing Materials And Posts
- Permanent Gates and H-Braces
- Fill Material & Topsoil
- Culverts &/or Flume Pipe
- Electrical Wire
- Pipe, Fittings & Tubing
- Pipe Supports
- Blasting Materials (Dynamite)
- Company Requested Office Facilities & Supplies
- Company Communications & Utilities
- Curlex
- Geotech Fabric
- Jute
- RR Car Bridges
- Temporary Orange Fencing

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Attachment B2

Special Unit Items

- Sheet Piling
- Well Point Systems
- Sock Drain Tile
- Contractor Provided Mats

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Attachment C

Specialty Equipment List

- Automatic Field Joint Coating Equipment:
- Automatic Welding Equipment:
- Bending Machines:
- Challenger:
- Clam Bucket:
- Cranes:
- Foam Equipment:
- Forwarder:
- Helicopter:
- John Henry:
- Mandrels, Bending Dies and Liners:
- Marooka Potholer:
- Off Highway Truck (Articulating Dump):
- Padding Bucket:
- Padding Machines:
- Pipe Rammer:
- Pneumatic Line-up Clamps:
- Rock Wheel:
- Sheet Piling Hammers:
- Skid Hustler:
- Stump Grinder:
- Swamp Buggies:
- Swamp Hoes:
- Trencher:

Equipment classified as "Specialty Equipment" is limited to that equipment depicted in this Attachment, unless approved otherwise by Company.

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18 (Signature) Rover: ng12 Date: 1/25/17

Attachment D

Invoicing and Approval Flow Diagram

USPL *KSJ* Date: *1/9/17*

19 *MR* Rover: *MR* Date: *1/25/17*

Attachment F

(Reserved)

USPL koj Date: 1/9/17

21  Rover: msr Date: 1/23/17

Attachment G

G1: Labor Rates for Union Labor
G2: Rates for Contractor Employee Labor

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G1: Labor Rates for Union Labor

USPL 107 Date: 1/9/17

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Rover: msc Date: 1/25/17

G2: Rates for Contractor Employee Labor

USPL Date: 1/9/17

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Rover:

Date: 1/23/17

Attachment H

Contractor Equipment Rate Sheet for Extra Work

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Date:

1/25/17

GENERAL PROVISIONS

EQUIPMENT RATE SCHEDULE

1. Preceding rates are effective January 1, 2017 and are only applicable for on-site equipment being used on the project. U.S. Pipeline shall be reimbursed for costs associated with renting and operating any specialty equipment, which is not on-site, to include the invoiced rental charges, transportation fees to and from the job-site, and the handling charge as described below in Items 4 & 5.
2. Preceding rates, except as noted, include company owned ownership costs, maintenance, insurance, taxes, home office overhead, profit, and all operating costs excluding supervision and labor.
3. Daily standby rates are based on an eight hour day at the applicable hourly rates.
4. Rented equipment or outside services arranged for by U.S. Pipeline, Inc. will be at the vendor's invoiced cost plus a 15% handling charge.
5. If mobilization of equipment is required for equipment not anticipated for the project, such expenses will be compensated per applicable rental and craft rates for extra work. Any outside transportation fees incurred by U. S. Pipeline will be reimbursed as described above in Item 4 to include, hauling, loading, unloading and permitting.

Attachment I

Contractor Crew Configuration List

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Attachment J

Target Price Estimate

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Attachment K

Project Cost Estimate

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"COMPANY"
Rover Pipeline LLC

Signature: _____

Name: _____

Title: _____

"CONTRACTOR"
U.S. Pipeline, Inc.

Signature: _____

Name: _____

Title: _____

**EXHIBIT A
SCOPE OF WORK**

**ROVER PIPELINE PROJECT
SPREAD 1
CLARINGTON LATERAL
CADIZ LATERAL**

GENERAL SCOPE OF WORK

1.0 GENERAL

Rover Pipeline Project - Spread 1, Clarington Lateral and Cadiz Lateral Work to be performed consists of all activities necessary to complete the installation of a 42 and 30-inch high-pressure natural gas pipelines with ancillary facilities for Company. The Work includes all items set forth in this section and as detailed in the complete Scope of Work ("Exhibit A"), Plans and Specifications ("Exhibit B"), Company Furnished Materials ("Exhibit C"), and Company furnished Drawings.

The Work shall be constructed in multiple spreads and is more fully described herein below, and includes the complete satisfactory performance of Contractor's construction services, including all things described herein as well as any other Work not explicitly described below but reasonably inferred as being Contractor's responsibility, including, without limitation, fabrication and installation of the following Work:

1.1 Spread 1 (AFE# 588000000008/Work Offer No. MCA-585-2016-25820-01). Work related to Spread 1 Line A and B is further described below.

1.1.1 Dual 42-inch high-pressure natural gas pipeline.

Total dual installation of approximately 197,164 linear feet of a 42-inch diameter coated line pipe, with Line A entailing approximately 98,582 linear feet and Line B entailing approximately 98,582 linear feet. The 42-inch pipeline will be and include appurtenances as set forth in Exhibit C with a 1440 MAOP design commencing in Harrison County, Ohio and terminating in Carroll County, Ohio.

1.1.2 Uncased Bore Crossings.

Total of fifty-six (56) uncased bore crossings of the dual 42-inch diameter pipelines, with Line A entailing twenty-eight (28) uncased bore crossings and Line B entailing twenty-eight (28) uncased bore crossings as further listed in the "Uncased Bore Crossing List", attached hereto as Attachment 1.

1.1.3 HDD Crossings.

Total of two (2) horizontal directional drill ("HDD") crossings on the dual 42-inch diameter pipelines, with Line A entailing one (1) HDD crossing and Line B entailing one (1) HDD crossing as further listed in the "HDD Crossing List", attached hereto as Attachment 2.

1.1.4 Supply Connector Line A & B & Cadiz Tie-In Site.

The Work involves the complete, turn-key construction and installation of (2) pre-fabricated 48" launcher assemblies, entailing one (1) on the Line A and one (1) on Line B, and one (1) 42" side valve. The Work further includes, without limitation: all associated

interconnect piping systems and valves; coating and painting all above ground piping; hydro-vac to identify existing pipelines within the Site; all Site Work in accordance with Company Drawings, which includes, clearing, grading, fill dirt required to level Site, Site compaction to 95% proctor, rocking, fencing and one (1) permanent access road; platforms and ladders; and civil Work, which includes, thrust blocks, bollards posts and concrete support blocks in accordance with Drawing No.'s P5-9-001A & P5-9-002.

1.1.5 MLV 2 Site.

The Work involves the complete, turn-key construction and installation of two (2) pre-fabricated 42" main line valve assemblies, entailing one (1) on Line A and one (1) on Line B. The Work further includes, without limitation: all associated interconnect piping systems, crossover piping (if required) and valves; coating and painting all above ground piping; hydro-vac to identify existing pipelines within the Site; all Site Work in accordance with Company Drawings for an approximate 80' x 120' Site, which includes, clearing, grading, fill dirt required to level Site, Site compaction to 95% proctor, rocking, fencing and one (1) permanent access road; platforms and ladders; and civil Work, which includes, thrust blocks, bollards posts and concrete support blocks in accordance with Drawing No. P6-16-001.

1.2 Clarington Lateral (AFE# 588000000008/Work Offer No. MCA-585-2016-25820-02). Work related to the Clarington Lateral is further described below.

1.2.1 42-inch high-pressure natural gas pipeline.

Total installation of approximately 170,844 linear feet of a 42-inch diameter coated line pipe. The 42-inch pipeline will be and include appurtenances as set forth in Exhibit C with a 1440 MAOP design commencing in Monroe County, Ohio and terminating in Harrison County, Ohio.

1.2.2 Uncased Bore Crossings.

Total of forty-one (41) uncased bore crossings of the 42-inch diameter pipelines as further listed in the "Uncased Bore Crossing List", attached hereto as Attachment 1.

1.2.3 HDD Crossings.

Total of two (2) horizontal directional drill ("HDD") crossings on the 42-inch diameter pipelines as further listed in the "HDD Crossing List", attached hereto as Attachment 2.

1.2.4 Clarington Compressor Station Site

The Work involves the complete, turn-key construction and installation of one (1) 42" side tap assembly. The Work further includes, without limitation: all associated interconnect piping systems and valves; coating and painting all above ground piping; hydro-vac to identify existing pipelines within the Site; all Site Work in accordance with Company Drawings, which includes, clearing, grading, fill dirt required to level Site, Site compaction to 95% proctor, rocking, fencing and one (1) permanent access road; platforms and ladders; and civil Work, which includes, thrust blocks, bollards posts and concrete support blocks in accordance with Drawing No.'s P6-03-001A & P6-03-003.

1.2.5 Majorsville Tie-In Site

The Work involves the complete, turn-key construction and installation of one (1) pre-fabricated 42" MLV assembly and one (1) 24" side tap to tie-in into the Majorsville Lateral. The Work further includes, without limitation: all associated interconnect piping systems

and valves; coating and painting all above ground piping; hydro-vac to identify existing pipelines within the Site; all Site Work in accordance with Company Drawings, which includes, clearing, grading, fill dirt required to level Site, Site compaction to 95% proctor, rocking, fencing and one (1) permanent access road; platforms and ladders; and civil Work, which includes, thrust blocks, bollards posts and concrete support blocks; (Per Drawing No.'s P5-7-001A & P5-7-005).

1.2.6 Supply Connector Line & Cadiz Tie-In Site

The Work involves the complete, turn-key construction and installation of one (1) pre-fabricated 48" receiver assembly. The Work further includes, without limitation: all associated interconnect piping systems and valves; coating and painting all above ground piping; hydro-vac to identify existing pipelines within the Site; all Site Work in accordance with Company Drawings, which includes, clearing, grading, fill dirt required to level Site, Site compaction to 95% proctor, rocking, fencing and one (1) permanent access road; platforms and ladders; and civil Work, which includes, thrust blocks, bollards posts and concrete support blocks; (Per Drawing No.'s P5-9-001A & P5-9-006).

1.2.7 MLV 2 Site

The Work involves the complete, turn-key construction and installation of one (1) pre-fabricated 42" main line valve assembly. The Work further includes, without limitation: all associated interconnect piping systems, crossover piping (if required) and valves; coating and painting all above ground piping; hydro-vac to identify existing pipelines within the Site; all Site Work in accordance with Company Drawings for an approximate 80' x 100' Site, which includes, clearing, grading, fill dirt required to level Site, Site compaction to 95% proctor, rocking, fencing and one (1) permanent access road; platforms and ladders; and civil Work, which includes, thrust blocks, bollards posts and concrete support blocks; (Per Drawing No.'s P6-15-001).

1.3 Cadiz Lateral (AFE# 588000000008/Work Offer No. MCA-585-2016-25820-03). Work related to the Cadiz Lateral is further described below.

1.3.1 30-inch high-pressure natural gas pipeline.

Total installation of approximately 18,458 linear feet of a 30-inch diameter coated line pipe. The 30-inch pipeline will be and include appurtenances as set forth in Exhibit C with a 1440 MAOP design commencing in Harrison County, Ohio and terminating in Harrison County, Ohio.

1.3.2 Uncased Bore Crossings.

Total of three (3) uncased bore crossings of the 30-inch diameter pipelines as further listed in the "Uncased Bore Crossing List", attached hereto as Attachment 1.

1.3.3 Cadiz Compressor Station Site

The Work involves the complete, turn-key construction and installation of one (1) pre-fabricated 36" launcher assembly. The Work further includes, without limitation: all associated interconnect piping systems and valves; coating and painting all above ground piping; hydro-vac to identify existing pipelines within the Site; all Site Work in accordance with Company Drawings, which includes, clearing, grading, fill dirt required to level Site, Site compaction to 95% proctor, rocking and fencing; platforms and ladders; and civil Work, which includes, thrust blocks, bollards posts and concrete support blocks in accordance with Drawing No.'s P5-10-001A & P5-10-002).

1.3.4 Supply Connector Line A & B & Cadiz Tie-In Site

The Work involves the complete, turn-key construction and installation of one (1) pre-fabricated 36" receiver assembly. The Work further includes, without limitation: all associated interconnect piping systems and valves; coating and painting all above ground piping; hydro-vac to identify existing pipelines within the Site; all Site Work in accordance with Company Drawings, which includes, clearing, grading, fill dirt required to level Site, Site compaction to 95% proctor, rocking and fencing; platforms and ladders; and civil Work, which includes, thrust blocks, bollards posts and concrete support blocks in accordance with Drawing No.'s P5-9-001A & P5-9-004.

2.0 PROJECT TIMING

2.1 COMMENCEMENT OF WORK

Contractor agrees to commence Work upon receipt of written authorization from Company to commence Work.

2.2 PROSECUTION AND COMPLETION OF WORK

The Contractor shall, after commencement of the Work, prosecute the Work with due diligence, and shall not neglect or discontinue the Work at any time. The Contractor shall perform all Work in a thorough workmanlike and substantial manner in accordance with the terms of the Agreement, accepted industry and Company Standards, and with the utmost regard for safety of life and property. The Work shall be conducted in such a manner and with such machinery, equipment, tools, labor, and supervision as is deemed necessary and sufficient to insure satisfactory completion of the Work and achievement of the In-Service and Final Completion Dates referenced in Section 2.3.2.

2.3 CONSTRUCTION SCHEDULE

2.3.1 Contractor shall develop a construction schedule for the Work that provides the most efficient and cost effective installation. Contractor shall begin planning and other preparatory work upon execution by both parties of the Agreement. Contractor agrees it has examined and is familiar with the project scope of Work, Alignment Drawings, Construction Drawings, landowner line list and restoration requirements, environmental permit requirements, and the terms and conditions of the Agreement and as a result, hereby certifies that it has sufficient information to prepare an accurate schedule of the timing and events required for performing the Work in an efficient and cost effective manner.

2.3.2 Work milestone dates are as follows:

i. Spread 1 Line A and B	
Commencement Date:	Upon receipt of written authorization from Company to commence Work.
In-Service Date (Line A):	July 1, 2017, with time being of the essence at all times.
In-Service Date (Line B):	November 1, 2017, with time being of the essence at all times.
Clean-up Completion Date (Line A):	October 31, 2017, with time being of the essence at all times.
Clean-up Completion Date (Line B):	October 31, 2017, with time being of the essence at all times.
Final Completion Date (Line A):	October 31, 2017, with time being of the essence at all times.

i. Spread 1 Line A and B	
Final Completion Date (Line B):	November 1, 2017, with time being of the essence at all times.

ii. Clarington Lateral	
Commencement Date:	Upon receipt of written authorization from Company to commence Work.
In-Service Date:	July 1, 2017, with time being of the essence at all times
Clean-up Completion Date:	October 31, 2017, with time being of the essence at all times
Final Completion Date:	October 31, 2017, with time being of the essence at all times

iii. Cadiz Lateral	
Commencement Date:	Upon receipt of written authorization from Company to commence Work.
In-Service Date:	July 1, 2017, with time being of the essence at all times
Clean-up Completion Date:	October 31, 2017, with time being of the essence at all times
Final Completion Date:	October 31, 2017, with time being of the essence at all times

Contractor shall fully and finally complete, to the Company's satisfaction, all Work related to coating and painting of all above ground piping prior to the achievement of the In-Service Date.

- 2.3.3 Contractor shall provide a construction schedule to complete all Work and shall include at a minimum its Work commencement date and all Work milestone dates referenced in Section 2.3.2, as well as the duration of all major tasks to perform the Work as follows:
- 2.3.3.1 Preparation of Work plans and pre-mobilization planning, including appropriate engineering tasks such as installation and contingency procedure delivery;
 - 2.3.3.2 Weld procedure and welder qualification testing;
 - 2.3.3.3 Mobilization of equipment spreads, including dedicated manpower;
 - 2.3.3.4 Installation of set-on weights (including forming and casting) if required;
 - 2.3.3.5 Installation of pipeline in accordance with Company Specifications;
 - 2.3.3.6 Fabrication, as required, and installation of pig launchers and receivers, and main line valves and all Site fabrications;
 - 2.3.3.7 Clearing, removal of all debris, grading, and leveling of the Site locations as shown on each appropriate Site Drawing;
 - 2.3.3.8 Hydrostatic Pipeline testing of all pipe designed for Class 1 or Class 2 locations to a minimum of 1.25 times the MAOP design, with a maximum test pressure of 100% SMYS for the thinnest wall pipe within the test section. Class 3 locations shall be tested to a minimum 1.5 times the MAOP design, with a maximum test

pressure of 100% SMYS for the thinnest wall pipe within the test section. Contractor's hydrostatic test plan shall be prepared and approved by a 3rd Party PE that is registered in the state or states the test is being conducted and the Company;

2.3.3.9 Caliper pig survey;

2.3.3.10 Final cleaning / drying of the completed pipeline to -40 degrees Fahrenheit specific dew point and no more than one quarter (¼) inch penetration or less visible on a 2.5lb/ft³ density foam pig;

2.3.3.11 Final grading to pre-construction contours that will prevent slips, washes, erosion, and ROW restoration and Site cleanup; and

2.3.3.12 Project documentation.

2.3.4 Contractor shall report progress on a weekly basis to Company. Contractor's submission of any Work schedule that deviates from the Work milestone dates referenced in Section 2.3.2 is hereby rejected by Company unless accepted in writing by Company after Contractor has provided a recovery Work Plan.

2.3.5 Within fifteen (15) days of award of the Agreement, the Contractor shall develop and coordinate with Company and submit to the Company for approval, a detailed network and schedule of activities for the term of the Agreement that conform to the Agreement Completion Dates.

3.0 MATERIALS FURNISHED BY COMPANY

Company will supply all piping and any materials that become a permanent part of the completed pipeline unless otherwise indicated in the Specifications and Drawings. Company furnished material is generally listed in "EXHIBIT C" MATERIALS TO BE FURNISHED BY COMPANY.

The following requirements apply to Company furnished materials:

- 3.1 Prior to starting Work, Contractor shall discuss material and supply necessities 48 hours prior to mobilizing to the Site. It is the Contractor's sole responsibility to make sure all materials and equipment are on the Site to execute the Work.
- 3.2 All materials shall be accompanied with a completed Company's B9 Form (Material Receiving / Transfer Report).
- 3.3 The appropriate AFE number and PO number shall be clearly written on each piece of material and shall be easily visible from the shipping position.
- 3.4 The correct heat and serial number shall be clearly written on each piece of material and shall be easily visible from the shipping position. Likewise, all materials shall be unloaded and stored or arranged in a manner with the heat and serial numbers and AFE numbers easily visible.
- 3.5 MTR's and certificates associated to each heat and serial number shall accompany the corresponding materials shipment and shall be organized in a manner that can easily be identified to each piece of material.
- 3.6 All materials shall be segregated, bundled, palletized, or otherwise assembled and shall be shipped by appropriate AFE number and PO. In no instance shall any returned materials be shipped, received, stored or mixed with other materials with different AFE numbers.

- 3.7 Materials shall be quantified and assessed as surplus or as scrap and reported accordingly by the appropriate materials person on location.
- 3.8 Any pipe or materials returned that do not have MTR's or certification shall be considered scrap. Contractor shall be responsible for returning of all "scrap" materials and shall be clearly and boldly marked as "scrap" and returned to the Company's construction storage yard to be sold from field yard. Contractor shall be responsible for acquiring invoice receipt from Company for such material.
- 3.9 All pipe, major equipment, valves, fittings and additional materials as listed in Exhibit C shall be available for pick-up at Company's Massillon Yard located at 411 Oberlin SW, Massillon, OH 44647 and Contractor shall be responsible for pre-loading inspection, loading, transporting to the Site, unloading, stringing, and storing/securing of all Company supplied materials at the Site. Contractor shall be responsible for any cost associated with the load out of materials from Company's Massillon Yard.
- 3.10 All surplus pipes greater than 25 feet long shall be beveled on both ends and all coating shall be repaired prior to returning to Company's Massillon Yard located at 411 Oberlin SW, Massillon, OH 44647. All surplus material and pipe under 6-inches in diameter and under 100 total linear feet shall be returned to Company's Massillon Yard located at 411 Oberlin SW, Massillon, OH 44647.
- 3.11 Any 42 and 30-inch pipe less than 25 feet and greater than 10 feet shall be required to be carried forward and installed into the line as nonconsecutive pups. Any pipe less than 25 feet and greater than 10 feet that is not installed into the line shall be purchased by the Contractor at the price per foot as procured by Company for any 42 and 30-inch pipe.
- 3.12 Any material, after Contractor's acceptance from Company's Massillon Yard that is not utilized for the completion of the Work and not listed on As-built reports/Drawings that are not returned to the Company's Massillon Yard as surplus or scrap materials will be reimbursed to Company by Contractor at its sole expense.
- 3.13 Contractor shall be responsible for providing all materials not listed in Exhibit C.

4.0 CUSTODY OF MATERIAL

The Contractor shall insure that all Company provided materials as listed in Exhibit C are properly stored and protected from damage. Any damage to materials after Contractor's acceptance and installation shall be the Contractor's responsibility in accordance with the terms of the Agreement. Any damage to materials shall be reported to the Company as soon as it is detected.

5.0 CONTRACTOR SUPPLIED ITEMS

Contractor shall furnish all machinery, tools, transportation, labor, and supervision necessary to complete the Work and all incidental and/or expendable material necessary to complete the Work (excluding materials specifically listed in Exhibit C "Company Furnished Materials" herein). Cost of Contractor supplied items not identified in a specific pay item will be included in Contractor's firm offer, Subpart A, Pay Item #1.0. Major items (described in depth within Contractor Submittal Document) to be furnished by the Contractor shall include, but may not be limited to:

- 5.1 Any additional yard deemed necessary by Contractor for staging of Company supplied materials beyond the yard space provided by Company;
- 5.2 Yard for Contractor's equipment and personnel;
- 5.3 Two (2) double-wide office trailers (with conference room) for each of the spread and laterals, which includes but may not be limited to two (2) phone lines and one (1) fax line, a minimum of DSL or cable modem (Hi-Speed Internet), color printer and copy machines capable of printing, scanning

and copying up to 11" x 17" documents, fax machines, utilities including men's and women's bathroom facilities with running water, office furniture and file storage cabinets, fire extinguisher, first aid kits, and dedicated parking spaces for Company's project personnel. Weekly cleaning services and permanent bathroom facilities. Office trailer shall be located at one of the Contractor provided yard spaces or alternate location approved by Company;

- 5.4 All materials and supplies for forming and casting concrete set-on weights;
- 5.5 All temporary pipe for boring tubes as required for dry boring;
- 5.6 All welding electrodes and welding consumable materials;
- 5.7 Contractor shall furnish heat applied FBE powder coating as specified in Company Coating Manual or equivalent and approved by Company for coating girth welds. All girth welds to be sandblasted to near-white for coating application.;
- 5.8 Contractor shall supply and use heat applied FBE powder coating and finalized by coating with ARO with the approved drying time for coating on directional drill sections, approved coating will be used for coating on fabrication and tie-ins where heat applied epoxy powder is not appropriate. Contractor will provide coatings as specified in Company Coating Manual;
- 5.9 Sandblasting equipment, abrasive blast media, paint, painting supplies, and all necessary equipment for painting pipe and equipment per Company Specifications, including right-of-way fences and gate posts;
- 5.10 Coating and painting color shall be a Company Grey color per the Company Coating Manual. Prefabricated material will be supplied with a prime coat only;
- 5.11 All fencing materials required by Company Specifications or found in "Right of Way Special Conditions" under the Landowner Line List or listed on alignment sheets, to install temporary gaps for construction, replacement of fences damaged by construction activities, and installation of permanent steel pipe H-braces and tubular gates prior to completion of construction;
- 5.12 Any crossings of wildlife/gaming fenced areas, Contractor shall be responsible for installing fence gaps equivalent to the existing fences. A game type camera is required at all cut cross fences and Contractor is required to maintain camera and data records. Gate guards maybe required at the gates of all perimeter high game fences, exterior gates bordering state highway, township roads, county roads, and public access roads and may be required on interior fences, as required by landowner stipulations;
- 5.13 All EZ-Line supports, concrete, anchor bolts, forming materials, and reinforcing materials as necessary for the installation of all facilities and associated piping supports, and concrete caps across electric transmission line right-of-way as indicated on standard Drawing details and the Construction Drawings or bid documents;
- 5.14 Galvanized steel pipe culverts or concrete culverts and Safety End Sections (aprons) per requirements and/or Township, County, or State requirements as set forth in the road crossing and permanent access permits and Contractor submittal documents if required, including any asphalt approaches as required by permit;
- 5.15 If required by permits or as listed on Company Drawings, Contractor shall be responsible for permanent black top covering (Asphalt) on any permanent gate entrances to State highways or major roads;
- 5.16 All traffic control signs, barricades, flagmen, equipment, and trained or state certified personnel;

- 5.17 All material, fabrication, installation and painting of required safety bollards and posts;
- 5.18 Caliper pig for inspection run and inspection results within 24 hours of completing caliper pig run and a final report shall be submitted to Company within 21 days of completion. Tool must be a high resolution caliper tool approved by Company;
- 5.19 Geotextile material, gravel, and road base materials for all new surface Sites locations. Geotextile material, gravel, and road base materials for all ground cover and to repair and maintain all private access roads used to complete the Work;
- 5.20 Materials to run a minimum of four (4) cleaning pig runs prior to pressure testing to remove rust scale, dirt, and other contaminants from line due to normal construction activities, which includes, but may not be limited to, water, brush pigs, foam pigs, swabs, materials for fabricating all test heads including temporary valves and weld fittings (which will be furnished by Company); pumps, compressors, all temporary piping, hoses, frac tanks, sock filters, hay bales, connectors to fill and dewater the pipeline, including fuel for all equipment;
- 5.21 Materials needed for pressure testing, including water, pigs, materials for fabricating all test heads including temporary valves and weld fittings (except for pipe which will be furnished by Company); pumps, compressors, deadweights, pressure and temperature chart recorders and certified gauges, all temporary piping, hoses, frac tanks, sock filters, hay bales, connectors to fill and dewater the pipeline, fuel for all equipment;
- 5.22 Materials needed for drying the pipe and cleaning the line of all water, which includes, but may not be limited to pigs, swabs, air compressors, dryers, hoses, testing equipment, fuel, etc.;
- 5.23 Contractor will furnish all miscellaneous materials as required for installation of Company supplied cathodic protection test stations, including all necessary wire for test lead and foreign pipeline crossings, excavation and shall installed at nearest fence line and road crossing. Contractor shall prepare one complete wrap of pipeline with test lead, pulling test lead "back through" wire loop for all test station connections to the pipeline and soil tubes and shall be installed or as required at locations specified by Company Drawings;
- 5.24 Materials, equipment, and labor required to install pipeline markers and aerial markers at Sites located on alignment sheets and/or specified or as directed by Company;
- 5.25 Hydro-vac to identify existing pipelines within the active facility Sites;
- 5.26 Fire Retardant Clothing (F.R.C) outer wear apparel, which shall be made of Nomex III, Kevlar, or Fire Retardant Cotton and shall be either one-piece coveralls or pants and shirt, and must be worn as the outer layer of clothing. The F.R.C shall be worn by all Contractor personnel within the in service facility Sites. Contractor personnel shall wear hard hats, safety glasses with side shields, steel toe shoes, and any approved PPE that is required;
- 5.27 Contractor shall provide all valves, fittings, and any additional materials under 2", including stainless steel tubing; and
- 5.28 All other material necessary to complete the Work as may be called for elsewhere in this Agreement, the attached specifications, and Drawings, other than and except material to be furnished by Company as expressly stated herein in Exhibit C.

6.0 GENERAL REQUIREMENTS

Contractor has included in Contractor's Firm Offer, all associated costs to furnish all labor, equipment, material, consumables and supervision necessary to complete the following Work, which includes, but may not be limited to the following:

- 6.1 Coordinating with Company Right-of-Way agents ONLY and be and compliance with all terms and conditions stated in the "Right of Way Landowner Line List". Contractor shall have no direct contact with landowners;
- 6.2 Coordinating with permitting agencies and compliance with all permits, foreign pipeline, and utility owners during the course of the Agreement;
- 6.3 Coordination with other contractors working within and near the right-of-way. Contractor agrees to cooperate with any and all other contractors;
- 6.4 If required, gate guards at the gates of all perimeter high game fences, exterior gates bordering state highway, county roads, township roads, and public access roads or as required by landowner stipulations;
- 6.5 Signage required by safety and permits as well as signage required to mark permissible roads and non-permissible roads to right of way;
- 6.6 Testing of all welders per Company Procedures and Specifications;
- 6.7 Clearing, grubbing, grading, and maintaining the construction right-of-way;
- 6.8 Disposal of all timber, stumps, brush, and debris from pipeline easement, Sites, and temporary work space. All materials removed from the right-of-way easement, temporary workspace and facility locations shall be chipped, burned if allowed by local permitting agencies and land owners or hauled off and properly disposed. Contractor shall not allow for debris to remain on pipeline easement, temporary workspace, and facilities and shall be handled according to the terms and conditions stated in the "Right of Way Landowner Line List ";
- 6.9 Contractor shall be responsible for all pre-loading inspection, loading, transporting, unloading, stringing, and storing/securing of all Company supplied materials from Company's Massillon Yard to the Site. Contractor shall be responsible for any cost associated with the load out of materials from Company's Massillon Yard;
- 6.10 All surplus pipes greater than 25 feet long shall be beveled on both ends and all coating shall be repaired prior to returning to Company's Massillon Yard. All surplus material and pipe under 6-inches in diameter and under 100 total linear feet shall be returned to Company's Massillon Yard;
- 6.11 Field bending utilizing bending machine with qualified personnel. Company shall allow field bends in accordance with Company's construction specifications;
- 6.12 Cutting, beveling, transitioning, line-up and welding of pipe and fittings;
- 6.13 Field joint coating;
- 6.14 Trenching and excavation to provide the specified cover;
- 6.15 Construction mats, engineered excavation boxes, shoring, weld points, etc. required for installation of pipeline;
- 6.16 Installation and lowering in of mainline pipe including all bends and segmentable fittings;
- 6.17 Directional drilling and installation of drilled crossings;
- 6.18 River, stream, canal, pond, and wetland crossings per permit and license requirements or as required on Company's alignment Drawings;

- 6.19 Concrete set-on weights as required by Company or listed on Company Drawings installed on the pipeline;
- 6.20 Boring of highways, roads (public and private), foreign utilities, and railroad crossings as described in bid documents/permits;
- 6.21 Contractor shall test an additional approximately 180 linear feet of each line pipe, which includes but may not be limited to test headers on any additional items to test these joints within the pipeline hydrotest with supporting documentation;
- 6.22 Foreign pipeline and utility crossings with clearances in accordance with permits or Specifications. Contractor to locate and verify depth and location and stake all Company owned and foreign line crossings prior to excavation. Contractor will provide all construction matting materials required to cross foreign pipeline and easements;
- 6.23 Trench dewatering, well points, trench shoring, sheet piling and construction matting required for the pipeline construction and installation of all associated piping assemblies including transportation and disposal of materials;
- 6.24 Backfilling and the use of a padding machine, if required, with a one inch (1") screen or select padding in areas where rock is present. If rock shield is required, rock shield shall be approved by Company prior to installation;
- 6.25 Construction and installation, which includes all Work associated with the civil and mechanical for the prefabricated pigging and valve assemblies, which includes platforms and ladders; thrust blocks, bollards posts and concrete support blocks;
- 6.26 Facility Sites finishing including repair of existing access drives to their original condition prior to construction activities , which includes, but may not be limited to culverts, rock surfacing, fencing, and cattle guards, as required;
- 6.27 All Site Work, which includes, clearing, grading, fill dirt required to level Site, Site compaction to 95% proctor, rocking, fencing and permanent access roads;
- 6.28 If required by permits or as listed on Company Drawings, Contractor shall be responsible for permanent black top covering (Asphalt) on any permanent gate entrances to State highways or major roads;
- 6.29 Hydrostatic testing of the pipeline and facilities per Company requirements and certified by a third party PE registered in the appropriate State, then reviewed and approved by Company approved PE;
- 6.30 Company will furnish one complete set of bolts and gaskets as required, Contractor is responsible for any additional bolts and gasket sets;
- 6.31 Following initial dewatering operations, the Contractor shall conduct a geometry verification survey. The Caliper pig will be provided by Contractor and approved by Company. Contractor shall provide all required labor and support to execute the pig run. The Caliper Pig will be run after the completed sections are cleaned and hydrostatic tested. Results of the Caliper Pig run will be reviewed with Company to determine possible locations for excavation and verification of any identified anomalies. Should none exist, Company will authorize Contractor to proceed with drying. Company fully intends for pipeline to be constructed free of dents, gouges, and other mechanical damage. Contractor personnel will assist Company in the visual inspection of each joint of line pipe during welding operations, coating operations, and lowering-in. Should indications of mechanical damage or excessive ovality of the line pipe be detected in the Caliper pig reports, Company will determine the standards of acceptability for natural gas pipelines to be applied. Company will determine the action

to be taken to investigate or repair or replace the damaged areas. It is the Contractor's responsibility and obligation to complete the pipeline without any defects;

- 6.32 Support and assist Company during commissioning of Work, which includes but may not be limited to, providing torqueing crews and any equipment and labor as required in support of all commissioning activities;
- 6.33 Preparation and installation of any required transition pups;
- 6.34 Concrete support and thrust blocks;
- 6.35 Drying to -40 degrees Fahrenheit specific dew point and cleaning of the pipeline and facilities per Company requirements;
- 6.36 Cathodic protection test stations on both sides of jurisdictional roadways and foreign pipeline bond test stations including coordination with foreign pipeline companies;
- 6.37 Pipeline warning signs and pipeline markers provided by Company including installing pipeline warning markers at each side of all public and private road crossings as well as all fence crossings;
- 6.38 Cleanup, restoration, preparation of right of way, fertilizing and reseeding as per the Company Specifications or landowner agreements. The specified seed type, and quantity distributed, and fertilizer application rates shall be based on Company specifications or individual landowner agreements;
- 6.39 All equipment furnished by Contractor shall be in sound and good working order;
- 6.40 Where joints of pipe are cut, it shall be the Contractor's responsibility to ensure that the pipe and heat numbers of the parent joint are transferred to the cut end or ends of the parent joint as well as to both ends of all pups resulting from the cutting;
- 6.41 The striking, cutting, damage, modification, destruction, or crushing of drain or irrigation tiles and required repairs associated with such damage in accordance with the Agricultural Mitigation Plan, Landowner requirements, and the terms of the Agreement, whether or not such drain or irrigation tiles were known or unknown (mapped or not) at the time of execution of this Agreement;
- 6.42 CONTRACTOR SHALL FIELD VERIFY ALL MEASUREMENTS; and
- 6.43 Items of Work that are not specifically identified, does not mean such Work is not included in Contractor's scope of Work. Any item of Work that is required for completion of the installation but not specifically identified is to be included in Contractor's Fixed Fee Proposal.

7.0 SPECIFIC REQUIREMENTS

- 7.1 Contractor shall abide by the AG mitigation plan and the Ohio Department of Natural Resources (ODNR) permits.**

7.2 SURVEY

7.2.1 COMPANY PROVIDED SURVEY

- 7.2.1.1 The pipeline route and the location of valves and other appurtenances are shown on the Company's construction Drawings furnished by Company and shall be surveyed by Company and marked by stakes and color coded as set forth in the chart below. Stakes will be set at approximately 200 foot intervals to mark the centerline of the proposed pipeline, survey control monuments, the location of

pipe changes, HDD's, weights, valves, the right-of-way limits, temporary work space limits and all points of intersection (P.I.'s), left or right. **Contractor is to verify the location of any and all foreign pipelines and verify the depth and location of any such pipelines and make Contractor's employees aware of the location and depth of any such pipelines prior to excavation.**

Centerline – Line A	Orange
Centerline – Line B	Glow Neon Lime
ROW	Blue/White
Drain Tile	Yellow
Existing	Red
P.I.s	Orange & Blue

7.2.1.2 Company survey crews and/or survey consultants and survey equipment will require access to the right-of-way and established survey monuments during the pipeline construction to determine the "as-built" location of the pipeline within the right-of-way and to record the longitudinal location of each component of the pipeline.

7.2.1.3 Company shall have the right to make minor deviations in the pipeline route and such changes shall in no manner alter the terms of compensation payable under the Agreement.

7.2.2 CONTRACTOR RESPONSIBILITY FOR SURVEY

7.2.2.1 The Contractor shall construct the Work in accordance with the stakes set by Company and shall be charged with full responsibility for conformity and agreement of the Work with stakes.

7.2.2.2 Contractor shall be held responsible for the preservation of all stakes and marks and survey monuments. If any of the stakes or marks or legal bars are carelessly or willfully destroyed or disturbed by the Contractor, its' employees or Sub-contractors, the cost of replacing them shall be borne by the Contractor. Where stakes are removed for clearing, grading, cutting, topsoil removal, to permit equipment to move along the route, or for any other reason, the Contractor shall be responsible for re-establishing the staked line.

7.2.2.3 The Contractor shall perform necessary field surveys for the proper grading of the trench and the bending of pipe, for locating and staking existing underground facilities, and for other pipeline installations except for such field survey Work as is specified to be performed by Company.

7.2.2.4 The Contractor shall cooperate with Company's surveyor in order to provide necessary access for performing "as-built" survey functions and shall take special precautions when working after dark or during inclement weather to ensure the safety of these individuals and their equipment. Where joints of pipe are cut, it shall be the Contractor's responsibility to ensure that the pipe and heat numbers of the parent join are transferred to the cut end or ends of the parent joint as well as to both ends of all pups resulting from the cutting. Contractor shall be responsible for cost of any unusable pipe.

8.0 REQUIRED NOTIFICATIONS

8.1 The Contractor is required to notify Company's Representative prior to commencing any phase of the Work as detailed in these Specifications and to keep Company's Representative informed regarding the location of all work crews, on a daily basis, as well as immediately notifying

Company's Representative regarding Work stoppages or shutdowns. Contractor shall provide Company scatter sheets of Contractor personnel daily and submitted no later than 6:00 AM. Company shall provide Contractor scatter sheet sample forms.

- 8.2 The Contractor shall keep Company's on-site staff informed of the location and extent of Work it proposes to attempt daily in order that Company may make arrangements to have sufficient personnel at the Work location to keep pace with the pipe installation operation. Company will not be responsible; however, for any reduction in progress due to the Contractor's failure to keep Company's Representative informed.
- 8.3 The Contractor shall notify, in writing, both Company's Representative and the authority having jurisdiction over any road, railway, canal, drainage ditch, river, foreign pipeline, or other utility, at least 72 hours (excluding Saturdays, Sundays, and Statutory Holidays), or as specified on the applicable permit(s), prior to commencement of pipeline construction, in order that the said authority may appoint an Inspector to ensure that the crossing is constructed in a satisfactory manner. Federal or State Departments of Transportation and Township/County road departments may also require a certificate of insurance from the Contractor specifying certain minimum insurance coverage for Work at road crossing Sites.
- 8.4 Prior to starting any Work in accordance with required notification, the Contractor shall notify all utilities within the area using the respective state's One Call System and by calling direct all Producers, Utilities, utility districts and municipalities not a member of the One Call System.
- 8.5 The Contractor may be required by the Railway Companies to corporately execute an Acknowledgment of Liability to the Railway, Company and to third parties for damage, injuries, and death resulting from the Contractor's operations. The Railway Companies may also require a Certificate of Insurance specifying certain minimum insurance coverage for Work at the railway crossing Sites and that the Railway and Company be named as an insured. The Contractor shall determine the Railway and be familiar with Company's requirements in advance to avoid unnecessary delays. Contractor shall immediately notify Company's Representative of any instance of non-compliance with these specifications.
- 8.6 The Contractor shall notify Company's Representative upon contract award where ramps across railways will be required for construction access. Application procedures will differ, depending on the railway owner. At no time shall the Contractor contact Railway Companies without first notifying Company's Representative. The Contractor is responsible for all costs associated with traffic control. If Contractor requires railroad crossing ramp the Contractor will be responsible for all costs associated with said ramp.
- 8.7 Contractor shall immediately notify Company's Representative of any spill of a potentially hazardous substance. Refer to the procedures outlined in the Spill Prevention, Containment and Countermeasure Plan ("SPCC").
- 8.8 Contractor shall immediately notify Company's Representative if potentially contaminated soils are encountered.
- 8.9 Contractor shall immediately notify Company's Representative of the discovery of a previously unreported historic property, other significant cultural materials, or suspected human remains uncovered during pipeline construction activities. Contractor shall cease Work at the Site of the previously undiscovered Site until the Company's archaeological consultant had inspected the Site and the Company has determined if the pipeline must be rerouted to avoid disturbance to the Site.
- 8.10 At least 30 working days prior to commencing testing activities, Contractor shall notify Company's Representative of any changes in their detailed test plan regarding intent to appropriate water from, or discharge water to, specific water bodies for the purpose of directional drilling. Contractor will be responsible for acquiring water usage permits and discharge permits if use and discharge points are

different than originally permitted.

- 8.11 Contractor shall provide written notification to Company representative 48 hours prior to scheduling pickup of material from Company's Massillon Yard as listed in Exhibit C.

9.0 USE OF DESIGNATED PUBLIC AND PRIVATE ROADS

- 9.1 All approved access roads and routes, both public and private, and ancillary Sites shall be prepared and maintained by the Contractor. The Contractor, at his sole expense, shall restore State, County, Township, private and access roads, bridges and ancillary Sites to their original condition. This Work shall meet with the approval of the Company and applicable landowner(s) and/or agencies.
- 9.2 Company shall provide the required road use permits for all affected Township, County, and State roads. Contractor shall be responsible for abiding by all road use permits requirements.
- 9.3 Prior to commencement of any transportation activities, Contractor shall perform all transportation analyses and design activities required to ensure safe transport of all project materials.
- 9.4 The Contractor shall ensure that it is aware of all state, county, and township weight restriction by-laws in force and that these by-laws are strictly adhered to and shall procure all hauling permits required for its operation and make arrangements for the movement of pipe, other materials and all equipment on Township/County/State roads with the appropriate Township/County/State officials before hauling commences.
- 9.5 The Contractor shall repair and pay for restoration of any damage done to any road.
- 9.6 The Contractor shall provide vehicle escorts for equipment haul trucks and flag persons where required and shall supply, install and maintain all temporary signs and other devices as required for warning public and private road users of construction activities. Such signs and devices and placement thereof shall conform to the specifications and requirements of the agency having jurisdiction over the crossing. In addition, the Contractor shall comply with all Township, County, and State regulations respecting such devices for the particular Township, County, and State in which the Work is being performed.
- 9.7 The traveled surfaces of roads, streets, highways, (and railways when applicable) shall be cleaned free of mud, dirt or any debris immediately after such material has been deposited by equipment traversing these said roads or exiting from the right-of-way.
- 9.8 Parking of vehicles along public roads shall not be allowed.
- 9.9 Company has obtained permission for Contractor to access the pipeline right of way and Work Sites on some private roads. Contractor must grade and repair with like road base materials all roads damaged as a result of Contractor's use so that such roads are left in a condition as good as or better than the condition to that in which the roads were initially found and/or to the specifications listed in the road use agreements. When crossing a wildlife/gaming fenced area, Contractor will be responsible for creating fencing gap equivalent to the existing fence. Gate security may be required in accordance with the landowner stipulation. A game type camera is required at all cut cross fences; Contractor is required to maintain camera and data.
- 9.10 Contractor should be aware of cattle guards, drainage culverts, bump gates, and gates utilized during access. Contractor is responsible for repair or replacement of such items if damaged by Contractor's operations.
- 9.11 Contractor will be responsible for creating fencing gap equivalent to the existing fence and gate security may be required.

- 9.12 Some gates may require welding securely after construction, specified on landowner line list.
- 9.13 Contractor should be aware that some landowners may require cattle guards installed as specified on landowner line list.

10.0 RIGHT-OF-WAY ACTIVITIES

10.1 Standard RIGHT-OF-WAY and Temporary Work Space Width (typical)

Company will provide a permanent right-of-way and temporary workspace for Contractor's construction operations. Generally the right-of-way (ROW) width for permanent and temporary workspace is shown in the Company's construction Drawings and/or in the "Right of Way Landowner Line List" and/or Alignment Sheets.

10.2 Additional Temporary Workspace

Company will provide additional temporary workspace at road crossings, water body crossings, railroad crossings, wetland crossings, and foreign pipeline crossings as indicated on the alignments. The workspace that has been arranged by Company is shown on the Company's construction Drawings and/or in the "Right of Way Landowner Line List" and/or Alignment Sheets. Contractor must limit the additional temporary workspace to only the extent that it is needed.

10.3 Right-of-Way Limitations

The Contractor shall also note that work space may be limited wherever physical barriers exist (i.e. trees, buildings, ponds, aboveground structures) or in sensitive areas such as wetlands as described in the Contract Documents, or as shown on the Company's construction Drawings and/or in the "Right of Way Landowner Line List" and/or Alignment Sheets. The Contractor shall allow for such partial restrictions and plan its operations accordingly. Any additional cost Contractor anticipates it may incur as a result of reduced workspace in these areas shall be included in Contractor's Fixed Fee Proposal.

10.4 Right-of-Way "Special Conditions"

The "Right of Way Landowner Line List" provided to Contractor provides "Special Conditions" or agreements that control, or at least impact, construction activities including access, ROW, clearing and restoration on a certain tract or group of tracts. Adherence to the "Special Conditions" is a part of Contractor's Scope of Work and is included in Contractor's Fixed Fee Proposal. The Contractor shall be controlled and bound by any and all provisions or instructions contained in the Construction Drawings and/or in the "Right of Way Landowner Line List" and/or Alignment Sheets. Contractor is reminded and advised to review same.

10.5 Right-of-Way Pipeline Construction Specifications

Compliance with the Company's Pipeline Construction Specifications is a part of Contractor's Scope of Work and cost for completing the specified Work is to be included in Contractor's Fixed Fee Proposal. Compliance with "Standard Construction Specifications" is required by the "Right of Way Landowner Line List" "the following requirements are common to all tracts: The Contractor shall be responsible for preparing the permanent right-of-way, the temporary workspace and any Site access for construction. This Work preparation includes but is not limited to clearing & removal of timber, brush and stumps, grading where required, erecting temporary fences, gaps and barricades and installing ramps and culverts.

- 10.5.1 The Contractor shall maintain the right-of-way in a clean, neat condition at all times. At no time shall litter be allowed to accumulate for more than one day at any location on the right-of-way. The Contractor shall provide a daily garbage detail with each major

construction crew to keep the right-of-way clear of trash, Waste from coating products, skids, defective materials and all construction and other debris immediately behind his operations to the satisfaction of Company, landowners, and tenants. Paper from wrapping or coating products or lightweight items such as tobacco products shall not be permitted to be scattered around by the wind.

- 10.5.2 Contractor to install pipeline with a minimum of 36" of cover in non-cultivated areas, minimum of 48" of cover in cultivated and sandy areas and a minimum of 60" of cover on all road crossing barrow ditches and creeks or as indicated on permits and stakeholder line list. Cover is measured from top of cut right-of-way grade to top of pipe.
- 10.5.3 The Contractor shall provide required portable restroom facilities for all personnel working on the location.
- 10.5.4 Ingress and Egress for construction is limited to pipeline ROW, public roads and approved private roads specifically provided by Company and shown on alignment sheets. **Contractor shall not use property-owners private roads without WRITTEN permission from landowner and approved by Company ROW agent or Company representative, verbal approvals are not acceptable to Company.**
- 10.5.5 Contractor shall provide chains and locks for each "construction access gate". Cost of chains and combination locks (limited to one lock per gate) will be included in Contractor's Fixed Fee Proposal. Contractor may remove and keep the locks for future use at the conclusion of final clean-up.
- 10.5.6 Rock construction entrance pads are required, as detailed in Standard Construction Drawings where equipment exits the construction area onto any roads. Tracking of sediment onto any roads is to be prevented. Geotextile fabric will be used beneath these pads to separate the rock from the underlying soils. Unless otherwise directed by Company, all rock and geotextile materials will be removed and disposed of in an approved off-site location after completion of construction activities.
- 10.5.7 Contractor transport and service vehicles parked along the right-of-way shall be located within the boundaries of ROW, so as not to impede progress of the Work, or in any way prevent ready access of Company's Representative, surveyors and third party inspection crews.
- 10.5.8 No clearing, grading or other construction activities shall occur outside approved, surveyed and flagged or staked right-of-way and temporary extra workspace limits as shown on the Company's construction Drawings and/or in the "Right of Way Landowner Line List" and/or Alignment Sheets work areas without prior written approval from Company. If the Contractor exceeds authorized workspace limits, Contractor is responsible for all costs resulting there from. All costs for damages of any kind or character whatsoever resulting from the use of unauthorized workspace shall be borne by Contractor.
- 10.5.9 Any activities conducted outside the approved construction right-of-way may result in immediate TERMINATION of the parties involved.
- 10.5.10 Contractor shall be responsible for carefully dismantling and restoring all fencing at any existing fence line, foreign pipeline or utility facilities.
- 10.5.11 All fences are to be "H-Braced" prior to cutting and all temporary fencing and gates must be comparable to existing fencing. Temporary construction fences will be maintained to a condition that insures containment of livestock and exotic game for the duration of construction. Permanent fences and gates shall be constructed in accordance with Company's standard construction Drawings. Gate security is required at all game fences at

all times and may be required at all gates as referenced in landowner line list.

- 10.5.12 The Contractor shall minimize the use of the full temporary workspace width to the extent practicable. Where wetlands are encountered, every effort shall be made to minimize the extent of workspace utilization through the wetlands with a view to minimizing the disruption of natural habitat. Temporary workspace may be cleared and prepared to the extent that it is needed to complete the Work.
- 10.5.13 The Contractor shall ensure that construction through livestock grazing and agricultural areas is completed in a manner that minimizes interference or inconvenience to landowners/tenants and their livestock and agricultural operations. Landowner/tenant access to their property shall be maintained at all times including providing openings in the topsoil and spoil piles and leaving ditch plugs across the trench at various locations as necessary for access to water & feed.
- 10.5.14 Certain trees along the right of way are not to be removed or damaged in accordance with right of way landowner line list. Contractor will mark these trees in a manner that his own personnel will know to avoid removal or damage to these trees. Cost incurred by Company as a result of the erroneous damage or removal of an identified tree will be reimbursed by Contractor, including any punitive damages that may be assessed.
- 10.5.15 Trees cut or trimmed along the right of way to provide clearance for construction equipment will be trimmed with the proper tree cutting equipment and not broken off with excavation or construction equipment. Contractor will be charged for the cost of trees needlessly damaged during construction.
- 10.5.16 All trees cut or pushed down and any brush or timber removed during construction of the pipeline by Contractor will be handled in a manner as specified and approved by the landowner(s) and as dictated in the Construction Drawings and/or in the "Right of Way Landowner Line List" and/or Alignment Sheets. Brush or timber may be removed from the pipeline ROW by hauling off for disposal by Contractor at a location and in a manner determined by Contractor and approved by Company. Chipping may be performed, but all debris must be removed from entire ROW line. Burying of stumps and brush on Company's temporary work-space or permanent easement is prohibited. Burning of all debris and or timber may be allowed with landowner permission and proper permitting. All debris will be removed from ROW.
- 10.5.17 All excavation required for installation of the pipeline will be performed utilizing Top-Soil Segregation spoil placement. Top-Soil Segregation (double-ditch or triple ditch) may be required, full ROW top-soil segregation may be specified in the "Construction ROW Special Provisions" section or environmental permits. Topsoil segregation depth in other areas will be not less than twelve (12) inches. See Ag Mitigation plan for strict specific instructions.
- 10.5.18 Top-Soil Segregation will be employed at all times where cuts in soil banks for conventional installation of creeks, canals, water-ways, roads etc. require banks to be cut for approach or pipe installation. Topsoil will be segregated and placed back on top of the completed backfill.
- 10.5.19 Contractor will leave ditch plugs or other means for livestock to travel across ditched areas for access to food and water.
- 10.5.20 No fishing in privately owned ponds; no firearms; no hunting; no pets allowed on Company's Right of Way.
- 10.5.21 No alcoholic beverages and/or 'energy drinks'; and no illegal and/or un-prescribed drugs,

allowed on Company's Right of Way.

- 10.5.22 Trench Breakers will be installed on all terraces and steep slopes utilizing polyurethane foam having a minimum two (2) pound density.
- 10.5.23 Rocks 4-inches and larger disturbed by construction of the pipeline will be picked up and disposed of by Contractor at a location that is approved by the Company, except in AG areas where rock 3" and larger shall be removed.
- 10.5.24 Contractor will properly prepare ground and apply seed, fertilizer and agricultural lime to the easement and all temporary workspace area in accordance with specific seed mix and fertilizer specifications if specified by a landowner and listed in the ROW "Special Provisions" or as listed herein. The reseeding specifications shall meet the requirements of the local ASCS office or as required by landowner. Non-vegetated areas shall be returned to preconstruction condition.
- 10.5.25 There shall be no smoking within any Company facilities.
- 10.5.26 There will be a speed limit enforced on the ROW, temporary access roads and permanent access roads of 20 MPH unless otherwise specified by the Landowner Line List.
- 10.5.27 There shall be no removal of artifacts.
- 10.5.28 All vehicles are subject to search.
- 10.5.29 There shall be no non-employee individuals allowed on ROW or Company facilities.
- 10.5.30 All employees are required to attend Environmental and Safety Training prior to commencement of Work.
- 10.6 All landowners require a minimum of 48 hour notice before Contractor entry, or as required in any landowner special conditions. Landowner notification will be made by a Company ROW agent, Contractor to provide notification requirements to Company agent a minimum of 96 hours prior to entry.

11.0 ENVIRONMENTAL PERMITS PLAN AND PROCEDURES

- 11.1 As a FERC-regulated interstate pipeline project, environmental requirements for pipeline construction must meet or exceed the applicable FERC guidance documents, Upland Erosion Control, Revegetation, and Maintenance Plan, in addition to, Wetland and Waterbody Construction and Mitigation Procedures, and FERC Certification of the Project and Contractor is responsible to adhere to any and all Commission Orders and Notices directed toward this project, any and all FERC Certificate conditions, any and all environmental best management practices
- 11.2 All employees are required to attend environmental and safety training prior to commencement of Work.
- 11.3 Company will provide Contractor with a copy of the Company's construction permits applicable for the Work. Contractor shall perform the Work hereunder in strict conformance with the Company's environmental permits and Company's environmental compliance plans.
- 11.4 Contractor will find enclosed within the Bid Documents, Company's Stormwater Pollution Prevention Plan (SWPPP). Contractor shall adopt the SWPPP and comply with all requirements included in the plan throughout the performance of the Work.
- 11.5 Contractor shall complete for Company's approval ten (10) days before commencement of Work,

Attachment D-1 of the Spill Prevention Control and Countermeasures Plan (SPCC Plan), found in the *Construction Environmental Requirement* Book. Company will provide a generic SPCC plan for Contractor to incorporate as part of their plan.

- 11.6 The Contractor shall employ its best efforts in accordance with common industry practices to return all areas disturbed during the Work to pre-construction contours, revegetated, and stabilized per the SWPPP, ROW "Special Conditions" and all applicable permits.
- 11.7 The SWPPP and/or the Environmental permit includes the Environmental details for each typical crossing. The Contractor shall install, maintain and remove temporary erosion and sediment controls as required, and shall be in compliance with the required erosion and sediment control.
- 11.8 The Company Environmental Inspector, in compliance with the SWPPP document enclosed within these Bid Documents, will provide guidance to Contractor on required erosion and sediment control structures and the Contractor will be responsible for compliance with the SWPPP and Environmental permit.
- 11.9 The Plan and SWPPP with attached typical details shall be followed for all open trench "watercourse" crossings.
- 11.10 Open-cut water crossings will be constructed per the SWPPP; methods Contractor to use best judgment as to crossing method and all costs must be included in Fixed Fee Proposal.

12.0 SAFETY

- 12.1 Contractor shall comply with Company's safety requirements as set forth in Exhibit I "Company's Safety Procedures", with respect to conduct of its activities on Company's or other's property.
- 12.2 Company will provide Contractor with Company's Safety Manual for distribution to Contractor and its subcontractor personnel upon request.
- 12.3 Contractor shall be responsible for ensuring its personnel and those of its subcontractors have successfully completed safety training required by Company. No Contractor or subcontractor personnel will be allowed on Company's right-of-way without proper safety credentials.

13.0 WELDING AND NDT

- 13.1 Contractor shall utilize Company welding procedures or prepare documented welding procedure(s) for Company review and approval. The final approved welding procedure shall govern the performance of all welds that become a permanent part of the Work. Welding procedure test shall meet the requirements outlined in API Standard 1104, latest edition and approved by DOT Part 192. Use of Company procedures shall not relieve Contractor of any liabilities to perform quality welds in accordance with Company's specifications nor will Company be liable for any delays and/or extra work attributed by Contractor from the use of Company procedures.
- 13.2 Contractor shall perform welder qualification tests in accordance with API Standard 1104, latest edition and referenced by DOT Part 192.
- 13.3 Unless otherwise approved by Company, all procedure and welder qualification tests shall be performed employing the same Company provided material for pipelay Work. Contractor shall be responsible for the preparation of pup pieces for testing.
- 13.4 If Contractor does not use Company's Welding Procedures Contractor shall perform welding procedure test at a work center approved by Company. All preparation, sampling, destructive testing, metallurgical determination, hardness testing, etc. required to qualify procedure(s) must be provided by Contractor and be locally available to the work center so that expeditious results shall

be achieved.

- 13.5 If Contractor does not use Company's Welding Procedures, Contractor shall provide a schedule outlining the period required for procedure qualification testing for Company's review and approval. If Contractor exceeds the time outlined in the approved schedule, Contractor, at Company's option, shall be responsible for Company's further inspection and administrative costs.
- 13.6 Contractor shall make available sufficient number of proposed welders/welding operators at the time of qualification testing to allow achieving the required number of Company approved welders within seven (7) working days. Otherwise, Contractor shall be responsible for Company's further inspection and administration cost.
- 13.7 A Company qualified representative must be present during all procedure and welder qualification testing.
- 13.8 All welds and all welding operations shall be completed at the end of each day's production, unless otherwise approved by Company's Representative.
- 13.9 Contractor will provide NDE contractor for 100% inspection of welds and shall provide the necessary transportation along the ROW for NDE Contractor. All welds shall be subjected to 100 percent NDE inspection in accordance with API Standard 1104, latest edition and approved by DOT Part 192 and subject to 100 percent ongoing audit. Contractor is responsible for storage of all records until project is complete, and shall maintain a record of each weld.
- 13.10 CONTRACTOR SHALL FIELD VERIFY ALL MEASUREMENTS.
- 13.11 A qualified welding inspector shall witness all welding of all process, gas transmission, hazardous liquids, or other types of pressurized piping including temporary welds.

14.0 BURIAL AND SPECIFIC CROSSING REQUIREMENTS

- 14.1 The standard minimum cover of installed pipeline is 36-inches in non-cultivated areas, 48-inches in cultivated and sandy areas, and 60-inches on road crossings. Cover is measured from top of cut to top of the pipe except for locations where the pipe has weight coating or weights added. In such locations the cover is measured to the top of the weight or weight coating.
- 14.2 The minimum cover in the ROW of most public roads from the lowest point of barrow ditches to the top of pipe in all public and private road crossings is 60-inches. All lease, private, public, township, county, state and federal roads are included.
- 14.3 The minimum cover below road surface at all public road crossings shall be not less than 60-inches or as shown on the Company's construction Drawings and/or in the "Right of Way Landowner Line List" and/or Alignment Sheets or any Permit Drawings.
- 14.4 The minimum cover below the base of rail for active railroad crossing shall be as specified on the Permit Drawings or 11-feet minimum below the base of the rail.
- 14.5 Contractor shall install the pipe in all open-cut water crossings with minimum 60-inches of cover.
- 14.6 The minimum clearance between Company's pipeline and foreign pipelines at foreign pipeline crossings shall be 24-inches if open cut, 36-inches if bored, 10-feet if HDD, or the minimum distance required by the foreign pipeline owner/operator, whichever is greater, unless otherwise approved by Company. Contractor will have no recourse against Company for the greater clearance distance required by the foreign pipeline owner/operators.
- 14.7 The Contractor shall, at its own expense, confirm or determine in advance of actual construction the

precise location and actual depth of all utilities and subsurface structures and pipelines that either cross or are in close proximity to the proposed pipeline. Contractor shall report to Company the discovery of any existing pipelines and other facilities not identified by Company furnished alignment sheets, maps and Drawings.

- 14.8 Contractor is to insure that the ditch is free from any rocks, limbs or any object or discontinuity in the ditch that may damage the coating or pipe wall. Contractor personnel cannot enter the ditch to remove rocks or debris unless the ditch excavation and ingress/egress ramps or ladders meet OSHA excavation standards for personnel entry.
- 14.9 The striking, cutting, damage, modification, destruction, or crushing of drain or irrigation tiles and required repairs associated with such damage in accordance with the Agricultural Mitigation Plan, Landowner requirements, and the terms of the Agreement, whether or not such drain or irrigation tiles were known or unknown (mapped or not) at the time of execution of this Agreement.

15.0 PIPE BENDS

- 15.1 Contractor will field bend the new 42 and 30-inch pipe to the extent possible as set forth in Company's Pipeline Construction Specifications, latest edition, *Bending and Alignment*.
- 15.2 For bends in excess of those that can be successfully made in the field within Company's specifications, Company has elected to provide Contractor with segmentable elbows or induction bends and are listed on Company's alignment sheets. The Contractor will be required to transition bevel the bend or the adjoining pipe bevel to within 0.093" of the adjoining line pipe or install a transition piece of pipe. The Contractor will not be granted additional payment if it elects to install additional bends in lieu of field bending. Contractor will provide experienced and skilled workman fully capable of installing such bends as required. Contractor should consider any cost associated and include such costs in the Contractor's Fixed Fee Proposal.
- 15.3 Any field bends that do not meet minimum standards after the "Caliper Pig" run will be removed and replaced at Contractor's expense.

16.0 HORIZONTAL DIRECTIONAL DRILLS

- 16.1 Company shall review and approve Contractor's HDD plan and any subcontractor or vendor or supplier utilized to perform horizontal directional drills.
- 16.2 Company has determined certain water bodies and other crossings will be installed utilizing Horizontal Directional Drilling (HDD). The crossings shall be installed by HDD and shall be included in Contractor's Fixed Fee Proposal.
- 16.3 Company will provide 42 and 30-inch pipe coated with FBE coating and an abrasion resistant overlay (ARO) for the specified HDD as listed in Exhibit C.
- 16.4 Contractor shall perform a 4-hour pre-installation test at a minimum test pressure as designated on the HDD drawing or as designated by a company representative. Hauling, transporting, pumping and metering of Contractor supplied water for HDD operation's and pretest of the HDD crossings is the responsibility of Contractor and shall be included in Contractor's Fixed Fee Proposal. All Directional Drill crossing water and drilling mud will be properly disposed of in accordance with regulatory and Company rules and regulations and is the responsibility of Contractor and shall be included in Contractor's Fixed Fee Proposal.
- 16.5 Contractor is to flock all girth welds for the HDD pipe with FBE and ARO coating per Company's coating manual.
- 16.6 Any water body crossings, public and/or private road crossings or other locations not addressed

specifically in the pay items of Part IV is to be installed by a method determined by the Contractor and is to be included in Contractor's Fixed Fee Proposal for each segment installation of the pipeline. Should Contractor encounter locations or conditions that Contractor deems would be a candidate for directional drilling, Contractor has the option to install the pipeline using directional drilling techniques, if the required line pipe is available. However, should Contractor decide to employ directional drilling techniques at locations and in situations where Company did not identify directional drilling as a requirement, cost of such directional drilling is at Contractor's expense and must be included in Contractor's Fixed Fee Proposal. Company will not pay additional compensation for directional drilling installation after Contractor's bid is accepted and the construction contract is executed. If Contractor desires to use directional drilling in locations not identified by Company, Company supports Contractor in that decision, however, the cost of the installation on Contractor's Fixed Fee Proposal will be the total amount paid to Contractor for that Pay Item regardless of Contractor's method of installation.

17.0 PUBLIC ROAD AND RAILROAD CROSSINGS

- 17.1 Company has determined there are Township, County and/or State public, private lease roads that will be affected by this project and will be bored and installed per the applicable permit requirements. However there may be some private roads, lease roads, field roads, etc. that may require conventional boring based per landowner request.
- 17.2 Company will provide pipe, as shown on the alignment sheets and listed in Exhibit C, coated with FBE coating and an abrasion resistant overlay (ARO) for the crossings specified to be bored. (Quantities indicated under materials furnished by Company under Exhibit C).
- 17.3 Boring will extend the full width of the crossing ROW.
- 17.4 Contractor is to flock all girth welds per Company's Coating Manual.

18.0 WEIGHT FOR BUOYANCY CONTROL

- 18.1 Install concrete set-on weights, per Company's alignment sheets or as required by Company.
- 18.2 Contractor shall furnish and install all weights or weight coating required for buoyancy control across water crossings and wetlands and other areas prone to flooding as shown on the Construction Drawings and/or Alignment Sheets. The Contractor is ultimately responsible for furnishing and installing all weights which are required to ensure the negative buoyancy of the installed pipeline.
- 18.3 Weights shall be installed in the designated areas or as required to provide a specific gravity of 1.3 relative to fresh water.

19.0 HYDROSTATIC TESTING

- 19.1 The following **MUST** be done before any test water is introduced into the system or any dewatering takes place:
 - 1. The test area will be clearly marked with barricade tape at a safe distance prior to any testing. A project wide meeting will be conducted with all affected parties working on the project present to discuss the areas affected by the testing. Only personnel directly involved with the testing will be allowed within the test boundary.
 - 2. The test crew will then conduct a tailgate safety meeting to verify with absolute certainty that the test is ready to be started.
- 19.2 Contractor is responsible for furnishing, hauling, transporting, pumping and metering of Contractor supplied water for hydrostatic testing and shall be included in Contractor's Fixed Fee Proposal. All

hydrostatic testing water will be properly disposed of in accordance with regulatory and Company rules and regulations and is the responsibility of Contractor and shall be included in Contractor's Fixed Fee Proposal.

- 19.3 Contractor is responsible for filling line with water, air removal, testing, de-watering, and drying as outlined in Company's Pipeline Construction Specifications, latest edition. Contractor is responsible to complete these tasks in accordance with all permits and engineering requirements.
- 19.4 Contractor to provide all temporary materials required for fabricating temporary pig launchers and receivers and shall fabricate and install temporary pig launchers and receivers, test headers, and supply all other temporary materials and all equipment, which includes, but may not be limited to fittings, valves, pigs, calibrated recorders and dead weights, hoses and enclosures with 3rd party certification of all test documentation necessary to complete all required testing of the completed pipeline. On all temporary test headers and/or temporary traps the MTR's must be supplied and on Site as well as all welds shall be x-rayed and MT on Site.
- 19.5 Contractor shall test all pipe designed for Class 1 or Class 2 locations to a minimum of 1.25 times the MAOP design, with a maximum test pressure of 100% SMYS for the thinnest wall pipe within the test section. Class 3 locations shall be tested to a minimum 1.5 times the MAOP design, with a maximum test pressure of 100% SMYS for the thinnest wall pipe within the test section. Contractor's hydrostatic test plan shall be prepared and approved by a 3rd Party PE that is registered in the state or states the test is being conducted and the Company.
- 19.6 Contractor may utilize Company provided sources (if any) or other available source of water, approved by the Company, for Contractor's pre-installation testing of HDD sections if Contractor can obtain water from other sources. In the event that Contractor elects to use other sources, Contractor will notify Company as soon as source of water and location and method of disposal is determined. Contractor will obtain any other necessary water usage and water disposal permits in Contractor's name. Contractor is obligated to follow the terms and conditions of the permits. Contractor is responsible for all water required for hydrostatic testing and disposal.
- 19.7 Contractor shall install a volume measurement device acceptable to Company at each water source and shall be responsible for measuring all water pumped from each of the water sources into the pipeline for testing purposes; and Contractor shall likewise measure the water volumes returned to each water source at the completion of testing operations.
- 19.8 Contractor is responsible to take water samples from each proposed water source, test for B.O.D, C.O.D., T.S.S., oil and grease, chlorine if municipal water is used, and PH prior to use and disposal of that water with approval from Company; and any other parameter as specified by the State discharge permit.
- 19.9 After filling the pipeline, Contractor will pressure pipeline to a minimum of 1,000 PSI and hold for a period sufficient to stabilize the temperature of the water. Upon stabilization, pipeline will be tested for a period of eight (8) continuous hours with zero (0) pressure loss. Hydrotests which exceeds 95% of SMYS, require a pressure volume (PV) plot starting when pressure reaches 80% of SMYS, and shall be performed and plotted in 10 psig increments. Test will be accepted and pressure released only after acceptance and approval by Company authorized representative.
- 19.10 Following completion of main line post-installation hydrostatic tests, Contractor shall dewater the pipeline in conformance with all permits and with the best management practices depicted in the SWPPP. The dewatering discharge point shall be located near the fill points to facilitate returning the hydrostatic testing water to each original source in the same general volumes and at the same general location from which it was obtained.
- 19.11 Contractor personnel will blow down the valve bodies after the fresh water slug has passed each valve location by closing the valve to a half open position and opening the vent and drains to blow

out the water. Return the valve to full open position. Blow down all other areas that may contain entrapped water: i.e. bypass valves, dead end lateral sections, piping sags, and instrument connections.

- 19.12 Contractor's PE shall sign off of the completed HDD and all documents to verify the completed HDD is in accordance with the submitted test plan.
- 19.13 Following initial dewatering operations, the Contractor shall conduct a Geometry Verification survey. The Caliper pig will be provided by Contractor and approved by company Contractor will provide all required labor and support to execute the pig run. The Caliper Pig will be run after the completed sections are cleaned and hydrostatic tested. Results of the Caliper Pig run will be reviewed with Company to determine possible locations for excavation and verification of any identified anomalies. Should none exist, Company will authorize Contractor to proceed with drying. Company fully intends for pipeline to be constructed free of dents, gouges, and other mechanical damage. Contractor personnel will assist Company in the visual inspection of each joint of line pipe during welding operations, coating operations, and lowering-in. Should indications of mechanical damage or excessive ovality of the line pipe be detected in the Caliper pig reports, Company will determine the standards of acceptability for natural gas pipelines to be applied. Company will determine the action to be taken to investigate or repair or replace the damaged areas. It is the Contractor's responsibility and obligation to complete the pipeline without any defects.
- 19.14 Contractor shall, following completion of the "Caliper Pig" survey and the replacement of any unacceptable pipe, dry the pipeline in compliance with Company's Pipeline Construction Specifications, latest edition. Each pipeline drying run shall consist of a train of displacement pigs propelled by dried compressed air at a rate of 5 to 10 miles per hour to remove water puddles. There shall be a time lapse of approximately 30 minutes between pig launchings to ensure that pigs do not run together. Mainline valve body cavities, pump station valves and piping and pig launcher and receiver piping shall be blown down and drained during each drying run. All drying runs shall be made in the same direction. Contractor shall mark each pig and record that mark in Contractor's records. At the conclusion of the drying process, pipeline will be considered clean and dry when the required dew point of -40 degrees Fahrenheit specific dew point has been achieved and dust penetration of one quarter (1/4) inch or less is visible on a 2.5 density foam pig.
- 19.15 Contractor shall test an additional 180 feet of each line pipe and 180 feet of bore pipe, which includes but may not be limited to test headers on any additional items to test these joints within the pipeline hydrotest.

20.0 RECORDS

- 20.1 Pipeline Safety Regulations and Regulatory Agency's regulations require that Company preserve certain records. Contractor shall cooperate with development and documentation of records as requested by Company's Representative.
- 20.2 Contractor shall keep and furnish complete records of all phases of the testing program.
- 20.3 Contractor shall record and maintain a log on a daily and monthly basis of water used for horizontal directional drills (if utilized).
- 20.4 HDD documentation, profiles, charts, etc. shall be submitted in an AutoCAD 2010 or later version file within fourteen (14) days of completion of successful drill and pull back.
- 20.5 Contractor shall record and provide Company's Representative, the date, time, location, total volume, maximum rate, and methods of all water discharged to the ground or surface water in association with trench dewatering.
- 20.6 Contractor shall provide Company's Representative with copies of Material Safety Data Sheets

(MSDS) for all chemicals used during construction of the pipeline.

- 20.7 Hazardous waste manifests will be provided to Company's Representative on a weekly basis or as appropriate.
- 20.8 Contractor shall provide an electronic (Latest Edition of AutoCAD) as-built report for each horizontal directional drill.
- 20.9 Contractor shall provide Company with a copy of all records and inspection reports required by the SWPPP.
- 20.10 Contractor shall remove seed labels, as each bag is emptied, and submit the labels to Company's Representative at the time of seeding.
- 20.11 Contractor shall complete a Caliper Survey Report detailing the time and activities for completing the caliper surveys. The report shall include a summary review/analysis of all findings and/or actions resulting from the caliper pig survey.
- 20.12 Contractor shall provide written acknowledgement from appropriate Township/County/State road and bridge authorities acknowledging their satisfaction with conditions of roads and bridges after movement of equipment by Contractor as a condition of retainage payment.

EXHIBIT B

PLANS, DRAWINGS & SPECIFICATIONS

PLANS (DRAWINGS)

If not attached hereto, the following plans (Drawings) applicable for the Work will be supplied to Contractor by Company's Representative and are incorporated herein by this reference.

SPECIFICATIONS

If not attached hereto, the following Plans, Specifications and Procedures applicable for the Work will be supplied to Contractor by Company's Representative and are incorporated herein by this reference.

EXHIBIT C
MATERIALS TO BE FURNISHED BY COMPANY

ROVER PIPELINE PROJECT

SPREAD 1
CLARINGTON LATERAL
CADIZ LATERAL

1. 42 AND 30-INCH PIPE

Company supplied 42 and 30-inch pipe as listed below shall be available for pick-up at Company's Massillon Yard located at 411 Oberlin SW, Massillon, OH 44647 and Contractor shall be responsible for pre-loading inspection, loading, transporting to the Site, unloading, stringing, and storing/securing of all Company supplied pipe at the Site. Contractor shall be responsible for any cost associated with the load out of materials from Company's Massillon Yard.

Contractor shall provide written notification to Company representative 48 hours prior to scheduling pickup of material from Company's Massillon Yard.

Spread 1		
DESCRIPTION	Approximate Pipe Quantities (ft.)	Length
42-inch diameter, 0.600" W.T. Grade X-70, API 5L FBE	152,097	QRL and/or DJ80
42-inch diameter, 0.720" W.T. Grade X-70, API 5L FBE	33,342	DJ80
42-inch diameter, 0.864" W.T. Grade X-70, API 5L FBE	120	DRL
42-inch diameter, 0.864" W.T. Grade X-70, API 5L ARO	9,425	DJ80

Clarington Lateral		
DESCRIPTION	Approximate Pipe Quantities (ft.)	Length
42-inch diameter, 0.600" W.T. Grade X-70, API 5L FBE	97,163	TRL
42-inch diameter, 0.720" W.T. Grade X-70, API 5L FBE	64,782	TRL
42-inch diameter, 0.864" W.T. Grade X-70, API 5L FBE	250	DRL
42-inch diameter, 0.864" W.T. Grade X-70, API 5L ARO	7,385	DRL

Cadiz Lateral		
DESCRIPTION	Approximate Pipe Quantities (ft.)	Length
30-inch diameter, 0.515" W.T. Grade X-70, API 5L FBE	17,782	TRL
30-inch diameter, 0.618" W.T. Grade X-70, API 5L ARO	340	TRL

All pipes have a minimum of 4" coating cutback on each end of joint.

Any pipe less than 25 feet and greater than 10 feet shall be required to be carried forward and installed into the line as nonconsecutive pups. Any pipe less than 25 feet and greater than 10 feet that is not installed into the line shall be purchased by the Contractor.

2. 42 AND 30-INCH INDUCTION BENDS

Company shall supply all fittings or bends for all locations marked on the Construction Drawings, where field bending has been determined by Company to be impractical. Company furnished 6D induction bends shall be taper bored for welding if required. Company induction bends shall be available for pick-up at Company's Massillon Yard located at 411 Oberlin SW, Massillon, OH 44647 and Contractor shall be responsible for pre-loading inspection, loading, transporting to the Site, unloading, stringing, and storing/securing of all Company supplied materials at the Site.

Contractor shall provide written notification to Company representative 48 hours prior to scheduling pickup of material from Company's Massillon Yard.

3. VALVES, FITTINGS AND ADDITIONAL MATERIALS

Company shall furnish the valves, fittings and additional materials as listed below and shall be available for pick-up at Company's Massillon Yard located at 411 Oberlin SW, Massillon, OH 44647 and Contractor shall be responsible for pre-loading inspection, loading, transporting to the Site, unloading, stringing, and storing/securing of all Company supplied materials at the Site.

Spread 1	
DESCRIPTION	Quantities
48" prefabricated launcher assembly	2
42" main line block valve assembly	2
42" side valve	1
Pipeline Aerial Marker Signs	All
Pipeline Cathodic Test Stations Type 1 & 2	All
Valves and fittings greater than 2"	All

Clarington Lateral	
DESCRIPTION	Quantities
48" prefabricated receiver assembly	1
24" main line block valve assembly	2
24" side tap	1
42" side tap	1
Pipeline Aerial Marker Signs	All
Pipeline Cathodic Test Stations Type 1 & 2	All
Valves and fittings greater than 2"	All

Cadiz Lateral	
DESCRIPTION	Quantities
36" prefabricated launcher assembly	1
36" prefabricated receiver assembly	1
Pipeline Aerial Marker Signs	All
Pipeline Cathodic Test Stations Type 1 & 2	All
Valves and fittings greater than 2"	All

Contractor shall provide written notification to Company representative 48 hours prior to scheduling pickup of material from Company's Massillon Yard.

4. COMPANY SUPPLIED MATS

Company shall provide the 8" x 4' x 18' mat quantities per spread as set forth in Section 13.4.1 "Spread Quantities Provided by Company" in Part IV of the Agreement and shall be available for pick-up at a location agreed upon by both Contractor and Company's third party mat contractor. Contractor shall be responsible for pre-loading inspection, loading, transporting to the Site, unloading, and storing/securing of all Company supplied 8" x 4' x 18' mats at the Site.

- a. An attrition rate of ten percent (10%) for new mats and fifteen percent (15%) for "A grade" mats shall apply to the aggregate quantity of mats provided by Company hereunder. Contractor shall return all mats, regardless of the condition, to the mat storage yard location(s). Mats returned to the storage yard location(s) with broken timber(s) or mats that are otherwise unusable shall be considered "cull mats" and included in the attrition rate. In the event the attrition rate exceeds ten percent (10%) for new mats or fifteen percent (15%) for "A grade" mats, Contractor shall pay Company the difference between the cost of a new mat at five hundred seventy five dollars (\$575.00) per mat and the aggregate lease price paid by Company for the original lease term of the mat and, if applicable, the extended daily lease term, not to exceed three hundred dollars (\$300.00) per mat beyond the specified attrition rate. For any cull mats exceeding the respective attrition rates, Company shall invoice Contractor the proper amount owed, which may be withheld from retainage by Company.
- b. As it relates to mats not returned by Contractor to the mat storage yards, Contractor shall pay Company the difference between the cost of a new mat at five hundred seventy five dollars (\$575.00) per mat and the aggregate lease price paid by Company for the original lease term of the mat and, if applicable, the extended daily lease term, not to exceed three hundred dollars (\$300.00) for each mat not returned to the specified storage yard location. For any mats not returned to the storage yard locations, Company shall invoice Contractor the proper amount owed, which may be withheld from retainage by Company.
- c. The costs owed by Contractor related to cull mats exceeding the attrition rate or as a result of mats not returned to the storage yard locations as referenced in (a) and (b) of this Section exclude any applicable sales or use tax. Any applicable sales and use tax will be added to the applicable Company invoice at direct cost and is in addition to the amounts owed by Contractor, which may be withheld from retainage by Contractor.

Contractor will furnish all materials not listed above that are required for the installation of the pipeline and fabricated assemblies.

The Contractor must ensure that the following requirements are followed for all Company furnished materials:

All materials shall be accompanied with a completed ETC B9 Form (Material Receiving / Transfer Report). Contractor shall be responsible for providing a copy of completed ETC B9 Form to Company's inspection personnel.

The correct AFE number shall be clearly written on each piece of material and shall be easily visible from the shipping position.

The correct heat / serial number shall be clearly written on each piece of material and shall be easily visible from the shipping position. Likewise, all materials shall be unloaded and stored or arranged in a manner with the heat / serial numbers and AFE numbers easily visible.

MTR's and Certificates associated to each heat / serial number shall accompany the corresponding materials shipment and shall be organized in a manner that can easily be identified to each piece of material.

All materials shall be segregated, bundled, palletized, or otherwise assembled and shall be shipped by AFE number. In no instance shall any returned materials be shipped, received, or stored mixed with materials with other AFE numbers.

Materials shall be quantified and assessed as surplus or as scrap and reported accordingly.

Any/all pipe or materials returned that do not have MTR's, heat number, PO number or certification shall be clearly and boldly marked as "Scrap".

All surplus pipes greater than 25 feet long shall be beveled on both ends and all coating shall be repaired prior to returning to Company's Massillon Yard located at 411 Oberlin SW, Massillon, OH 44647. All surplus material and pipe under 6-inches in diameter and under 100 total linear feet shall be returned to Company's Massillon Yard located at 411 Oberlin SW, Massillon, OH 44647.

All surplus materials shall be loaded, transported and unloaded at Company's Massillon Yard located at 411 Oberlin SW, Massillon, OH 44647.

Any pipe or materials returned that do not have MTR's or certification shall be considered scrap. Contractor shall be responsible for returning of all "scrap" materials and shall be clearly and boldly marked as "scrap" and returned to the Company's construction storage yard to be sold from field yard. Contractor shall be responsible for acquiring invoice receipt from Company for such material.

EXHIBIT D

RESERVED

**EXHIBIT F
WORK OFFER**

Contractor submits this Work Offer Proposal to Company pursuant to the terms of the Agreement dated January 3, 2017 by and between Rover Pipeline LLC ("Company") and U.S. Pipeline, Inc. ("Contractor") ("Agreement"). By its execution hereof, Contractor agrees to perform for Company pursuant to the terms, conditions and provisions of the Agreement, the following described Work, and shall furnish all labor, technical capability, tools, equipment, transportation, materials, (except set forth below), and other facilities and items necessary or convenient to complete the following work as further described and specified in the Specifications and/or Drawing attached hereto and by this reference made a part of this Work Offer ("the Work"):

1. (a.) **Project Name:** Spread 1 (AFE#588000000008).
(b.) **Description of Work:** Construction and installation of a dual 42" high-pressure natural gas pipeline in accordance with the Agreement, including, without limitation Exhibit A and Part IV.
2. **Company shall furnish the following materials to the following Work Site(s):** See Exhibit C.
3. **The Work shall be performed at the following location(s):** See Exhibit A.
4. **Contractor shall commence Work immediately after receipt of written authorization from Company to commence Work and shall achieve the Completions Dates as set forth in Section 4 of Part I, with time being of the essence at all times.**
5. **Contractor offers to complete the Work in accordance with the Agreement for the following consideration, which shall constitute full and complete payment therefore:**
 - (a.) In accordance with the Fixed Fee Proposal, attached hereto as Part IV, in the amount of one hundred thirty-one million two hundred sixty-four thousand six hundred twenty-nine dollars and ninety-three cents (\$131,264,629.93); and
 - (b.) Company shall withhold 10% Retainage Fee.
6. **Contractor shall submit invoices to the email address below and must clearly indicate the Company name, AFE, Agreement and Work Offer numbers.**

Email Invoices to: apinvoicestp.mailbox@energytransfer.com

This Work Offer Proposal is hereby submitted to Company by Contractor, agreed to and accepted this 3rd day of January, 2017.

Company:

Rover Pipeline LLC

Signature: _____

Name: _____

Title: _____

Contractor:

U.S. Pipeline, Inc.

Signature: _____

Name: _____

Title: _____

**EXHIBIT F
WORK OFFER**

Contractor submits this Work Offer Proposal to Company pursuant to the terms of the Agreement dated January 3, 2017 by and between Rover Pipeline LLC ("Company") and U.S. Pipeline, Inc. ("Contractor") ("Agreement"). By its execution hereof, Contractor agrees to perform for Company pursuant to the terms, conditions and provisions of the Agreement, the following described Work, and shall furnish all labor, technical capability, tools, equipment, transportation, materials, (except set forth below), and other facilities and items necessary or convenient to complete the following work as further described and specified in the Specifications and/or Drawing attached hereto and by this reference made a part of this Work Offer ("the Work"):

1. (a.) **Project Name:** Clarington Lateral (AFE#588000000008).

(b.) **Description of Work:** Construction and installation of a 42" high-pressure natural gas pipeline in accordance with the Agreement, including, without limitation Exhibit A and Part IV.
2. **Company shall furnish the following materials to the following Work Site(s):** See Exhibit C.
3. **The Work shall be performed at the following location(s):** See Exhibit A.
4. **Contractor shall commence Work immediately after receipt of written authorization from Company to commence Work and shall achieve the Completions Dates as set forth in Section 4 of Part I, with time being of the essence at all times.**
5. **Contractor offers to complete the Work in accordance with the Agreement for the following consideration, which shall constitute full and complete payment therefore:**
 - (a.) In accordance with the Fixed Fee Proposal, attached hereto as Part IV, in the amount of one hundred thirty-six million three hundred ninety thousand one hundred twenty-one dollars and seventy-one cents (\$136,390,121.71); and
 - (b.) Company shall withhold 10% Retainage Fee.
6. **Contractor shall submit invoices to the email address below and must clearly indicate the Company name, AFE, Agreement and Work Offer numbers.**

Email Invoices to: apinvoicestp.mailbox@energytransfer.com

This Work Offer Proposal is hereby submitted to Company by Contractor, agreed to and accepted this 3rd day of January, 2017.

**Company:
Rover Pipeline LLC**

Signature: _____

Name: _____

Title: _____

**Contractor:
U.S. Pipeline, Inc.**

Signature: _____

Name: _____

Title: _____

**EXHIBIT F
WORK OFFER**

Contractor submits this Work Offer Proposal to Company pursuant to the terms of the Agreement dated January 3, 2017 by and between Rover Pipeline LLC ("Company") and U.S. Pipeline, Inc. ("Contractor") ("Agreement"). By its execution hereof, Contractor agrees to perform for Company pursuant to the terms, conditions and provisions of the Agreement, the following described Work, and shall furnish all labor, technical capability, tools, equipment, transportation, materials, (except set forth below), and other facilities and items necessary or convenient to complete the following work as further described and specified in the Specifications and/or Drawing attached hereto and by this reference made a part of this Work Offer ("the Work"):

1. (a.) **Project Name:** Cadiz Lateral (AFE#588000000008).

(b.) **Description of Work:** Construction and installation of a 30" high-pressure natural gas pipeline in accordance with the Agreement, including, without limitation Exhibit A and Part IV.
2. **Company shall furnish the following materials to the following Work Site(s):** See Exhibit C.
3. **The Work shall be performed at the following location(s):** See Exhibit A.
4. **Contractor shall commence Work immediately after receipt of written authorization from Company to commence Work and shall achieve the Completions Dates as set forth in Section 4 of Part I, with time being of the essence at all times.**
5. **Contractor offers to complete the Work in accordance with the Agreement for the following consideration, which shall constitute full and complete payment therefore:**
 - (a.) In accordance with the Fixed Fee Proposal, attached hereto as Part IV, in the amount of thirteen million one hundred forty-three thousand two hundred ninety-seven dollars and sixty-one cents (\$13,143,297.61); and
 - (b.) Company shall withhold 10% Retainage Fee.
6. **Contractor shall submit invoices to the email address below and must clearly indicate the Company name, AFE, Agreement and Work Offer numbers.**

Email Invoices to: apinvoicesetp.mailbox@energytransfer.com

This Work Offer Proposal is hereby submitted to Company by Contractor, agreed to and accepted this 3rd day of January, 2017.

**Company:
Rover Pipeline LLC**

Signature: _____

Name: _____

Title: _____

**Contractor:
U.S. Pipeline, Inc.**

Signature: _____

Name: _____

Title: _____

EXHIBIT G
CONTRACTOR'S COMPLETION AFFIDAVIT

U.S. Pipeline, Inc. located at 950 Echo Lane, Suite 1001, Houston, Texas 77024 having entered into a contract with Rover Pipeline LLC ("Company"), dated January 3, 2017 to construct the following:

Rover Pipeline Project - Spread 1, Clarington Lateral and Cadiz Lateral (AFE# 588000000008)

does hereby certify that said contract has been fully and finally completed; that all labor has been fully and entirely paid; that all Federal and State Unemployment and Old Age Benefit Taxes have been paid, or will be paid when due; that all valid State Sales and Use Taxes properly levied on materials, equipment, supplies and services furnished by Contractor have been paid; that all Federal or State Income Taxes required by law to be withheld from employees or others have been withheld and remitted to the proper taxing authority, or will be remitted when due; that all premiums for insurance requirements, all claims for damages of any nature arising from the fulfillment of said contract, all materials, supplies, etc., all labor and bills for materials, supplies, etc., of any and all subcontractors, have all been paid; that payment has been made in full of all claims for damages for which Contractor is required to indemnify Company, its parent and affiliated companies, hereunder, and that any other items payable by the Contractor under said contract have all been paid.

Contractor agrees to indemnify, save and hold harmless Company from any claims, damages, or expenses arising from Contractor's failure to perform or fulfill any of the acts or obligations referred to above.

Contractor: U.S. Pipeline, Inc.

By: _____

Name: _____

Title: _____

State of _____

County _____

_____, an individual, makes oath and says that he/she is representing U.S. Pipeline, Inc. with headquarters at 950 Echo Lane, Suite 1001, Houston, Texas 77024 and that he/she examined the foregoing statement and that it is a true and correct statement of facts in respect to each and every matter set forth therein.

(Signature)

Subscribed and sworn to before me this _____ day of _____, 201__.

_____ County _____ State.

Notary Public

My commission expires: _____

**EXHIBIT H
RESERVED**

EXHIBIT I
CONTRACTOR SAFETY

If not attached hereto, Company's Safety Handbook will be supplied upon request from Contractor by Company's Representative.

Agreement No.: MCA-585-2016-25820

**EXHIBIT J
RESERVED**

EXHIBIT K PAYMENT AUTHORIZATION PROCEDURE

Every fourteen (14) days following commencement of work hereunder, Company's Representative in collaboration with Contractor's Superintendent, shall make a written estimate using Company's *Authorization for Invoicing Form*, of that portion of the work which has been completed and omitted, if any. The *Authorization for Invoicing Form* shall be reviewed, and signed if approved, by Company's Representative and Contractor's representative in the field, after which Company's Representative shall forward same to Company's office. Contractor shall prepare and deliver to Company an invoice for that portion of the work which has been completed and defined, on the *Authorization for Invoice Form*, and which has not been included in a prior invoice. The invoice form shall include, as a minimum, Contractor's name and address, invoice number, invoice date, AFE number, and the *Authorization for Invoice Form*, which provides the description of work, a breakdown of major categories showing unit price by categories, percent of progress complete, total amount of such invoice and ten percent (10%) of such total amount which is to be retained by Company. The *Authorization for Invoicing Form* shall likewise be used for invoicing all "Extra Work" authorized by Company's Change Orders.

Absent some obvious error in the written estimate agreed by the Representatives of Company and Contractor, Company shall pay by "Wire Transfer" within fourteen (14) days to Contractor ninety percent (90%) of the total invoice amount. The remaining ten percent (10%) of the total invoice amount shall be retained by Company in accordance with the following conditions:

- I. Eighty-five percent (85%) of the ten percent (10%) retainage shall be released no earlier than one hundred twenty (120) days following Contractor's achievement of the In-Service Date under this Agreement. To avoid misinterpretation, eighty-five percent (85%) is the equivalent to eight and one half percent (8.5%) of the total aggregate Agreement price paid as compensation to Contractor on or prior to the In-Service Date; and
- II. The final remaining fifteen percent (15%) of the ten percent (10%) retainage, to avoid misinterpretation, fifteen percent (15%) is the equivalent to one and one half percent (1.5%) of the total aggregate Agreement price paid as compensation to Contractor on or prior to Final Acceptance, shall be released no earlier than one hundred twenty (120) days after Contractor has achieved the following conditions:
 - a. Final Acceptance by Company, in its sole judgment, of all Work performed hereunder (including Final Acceptance of Clean-up, final restoration and final right-of-way seeding Work);
 - b. Receipt by Company of affidavits or other evidence satisfactory to the Company that Contractor has paid all claims and bills for labor, materials, equipment, services and supplies provided for or in connection with the Work hereunder;
 - c. Payment by Contractor of all claims of any character whatsoever related to the Work performed that could reasonably be expected to negatively impact Company, and for which Contractor is responsible under the Agreement;
 - d. Receipt by Company of satisfactory evidence that Contractor has paid any sales, use or other taxes pertaining to the Work which are imposed by any governmental body having jurisdiction where said Work is done; and
 - e. Receipt by Company of a certificate from the County Clerk's office in the county where the Work is performed in the, name of both Contractor and Company showing that no liens, of any kind, arising from said work have been recorded. Said Certificate must be dated at least one hundred twenty (120) days after the date of Final Acceptance of Work by Company;

Notwithstanding, and in addition to, any other provision of this Agreement, any or all payments otherwise due Contractor from Company may be withheld at any time and from time to time by Company, without payment of

interest, on account of defective Work done and not remedied by Contractor, unpaid bills or claims for labor, materials, services and supplies or unpaid claims of any kind whatsoever which Contractor has agreed to pay, or upon reasonable evidence indicating that such unpaid bills or claims are outstanding. If and when the cause or causes for withholding any such payment shall be remedied or removed without cost to Company and evidence satisfactory to Company of such remedy or removal has been presented to Company, the payments withheld shall be made to Contractor.

Neither Final Acceptance of the Work, final payment hereunder, and/or partial or entire use by Company of the Work shall relieve Contractor of any unperformed or continuing obligation under the Agreement, including, without limitation, Contractor's obligations to protect, indemnify and hold harmless Company, its officers, agents and employees as herein provided.

**EXHIBIT L
WORK CHANGE ORDER**

WORK CHANGE ORDER			AGREEMENT NO.: MCA-585-2016-25820		
WORK CHANGE ORDER NO.:			WORK CHANGE DATE:		
CONTRACTOR: U.S. Pipeline, Inc.			AGREEMENT DATE: January 3, 2017		
PROJECT NAME: Rover Pipeline Project			WORK OFFER NO. MCA-585-2016-25820-__		
MODE OF PAYMENT: <input type="checkbox"/> Unit Price \$ _____ <input type="checkbox"/> Force Account \$ _____ <input type="checkbox"/> Agreed Amount \$ _____			AFE NUMBER: 5880000000__		
DATE WORK STARTED:		DATE WORK COMPLETE:		ATTACHMENTS:	
DESCRIPTION OF WORK (INCLUDE REFERENCE DRAWINGS IF PERTINENT): REASON FOR WORK: SCHEDULE IMPACT:				<u>Type Of Extra Work</u> <input type="checkbox"/> Contract Unit Price <input type="checkbox"/> Scope Change Construction Drawing Error Site Condition Change <input type="checkbox"/> Job Acceleration <input type="checkbox"/> Other	
Company Payment Approvals			Contractor Acceptance		
Title	Name	Date	Title	Name	Date
Project Manager					
Director					
V. P. Approval					